

Final Environmental Impact Report

SCH# 2021110076

Volume 4
Chapters 7, Responses to Comments

GEM HILL QUARRY PROJECT
by CalPortland Company (PP21404)

Conditional Use Permit No. 45, Map No. 214



Kern County
Planning and Natural Resources Department
Bakersfield, California

October 2022

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**PLANNING AND NATURAL
RESOURCES DEPARTMENT**

Planning
Community Development
Administrative Operations

October 27, 2022

File: CUP 45, Map 214
S.D.: #2 - Scrivner

Addressee List (*See Distribution List*)

**Re: Response to Comments for Draft Environmental Impact Report – Gem Hill Quarry Project
by CalPortland Company (PP21404) (SCH #2021110076)**

Dear Interested Party:

Enclosed is a document entitled *Volume 4 – Chapter 7 – Response to Comments*, for the above referenced project. Section 15088 of the California Environmental Quality Act Guidelines requires the Lead Agency to evaluate comments on environmental issues received from persons who reviewed the Draft Environmental Impact Report (EIR) and prepare a written response addressing each comment. This document is Chapter 7 of the Final EIR.

A public hearing has been scheduled with the Kern County Planning Commission to consider this request on **November 10, 2022**, at 7:00 p.m., or soon thereafter, at the Chambers of the Board of Supervisors, First Floor, Kern County Administrative Center, 1115 Truxtun Avenue, Bakersfield, California.

Thank you for your participation in the environmental process for this project. If you have any questions regarding this project, please do not hesitate to contact me at (661) 862-8612 or via email at catesr@kerncounty.com.

Sincerely,

Randall Cates, Planner III
Advanced Planning Division

COMMENTING AGENCIES AND INTERESTED PERSONS: Kern County Fire Department, Fire Prevention Unit; County of Kern Public Works/Building & Development/Survey; County of Kern Public Works/Building & Development/Floodplain; County of Kern Public Works/Building & Development/Development Review; Eastern Kern Air Pollution Control District; Kern County Superintendent of Schools; Erin Hambrick & Phil Moores; Ann Keasler-Kahn; Jeffrey Douglass; Zane Revai; San Manuel Band of Mission Indians; Santa Rosa Rancheria; Bureau of Land Management; California State Lands Commission; Lahontan Regional Water Quality Control Board

**Gem Hill Quarry Project
RTC Mailing List**

Kern County Fire Department
Fire Prevention Unit
Attn. Regina Arriaga/Jim Killam

Kern County Public Works Department/
Building & Development/Survey

Kern County Public Works Department/
Building & Development/Floodplain

Kern County Public Works Department/
Building & Development/
Development Review

East Kern Air Pollution Control District
Attn. Glen Stephens

Kern County Superintendent of Schools
Attn. Andrea Watson
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Zane Revai
via email: zane@revai.net

San Manuel Band of Mission Indians
Attn. Ryan Nordness
Cultural Resource Analyst
26569 Community Center Dr.
Highland, California 92346

Santa Rosa Rancheria
Attn. Samantha McCarty
P.O. Box 8
Lemoore, CA 93245

U.S. Bureau of Land Management
Attn. Kevin Schrecengost
300 South Richmond Road
Ridgecrest, CA 93555

State Lands Commission
Attn. Nicole Dobroski
100 Howe Avenue, Suite 100-South
Sacramento, CA 95825-8202

California Regional Water Quality
Control Board/Lahontan Region
Attn. Andrew Robinson
15095 Amargosa Rd. – Bld 2, Suite 210
Victorville, CA 92394

Final Environmental Impact Report

SCH# 2021110076

Volume 4
Chapters 7, Response to Comments

GEM HILL QUARRY PROJECT
by CalPortland Company (PP21404)

Conditional Use Permit No. 45, Map No. 214



Kern County
Planning and Natural Resources Department
Bakersfield, California

Technical Assistance by:
Benchmark Resources

October 2022

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7.1 Introduction

7.1.1 Purpose

As defined by Section 15050 of the *California Environmental Quality Act (CEQA) Guidelines*, the Kern County Planning and Natural Resources Department is serving as “Lead Agency” for the preparation of the Environmental Impact Report (EIR) for the Gem Hill Quarry Project (project). The Final EIR presents the environmental information and analyses that have been prepared for the project, including comments received addressing the adequacy of the Draft EIR, and responses to those comments. In addition to the responses to comments, clarifications, corrections, or minor revisions have been made to the Draft EIR.

The Final EIR which includes the responses to comments, the Draft EIR, and the Mitigation Measure Monitoring Program, will be used by the Planning Commission in the decision-making process for the project.

7.1.2 Environmental Review Process

A Notice of Preparation (NOP)/Initial Study (IS) (SCH No. 2021110076) was circulated for a public review period commencing November 4, 2021, and ending on December 6, 2021. Twenty-nine individual written comment letters were received and used in the preparation of the Draft EIR. Additionally, two verbal comments were received at the November 18, 2021 public scoping meeting. All public comments received relevant to CEQA-related issues were considered by the County in preparing the Draft EIR.

The Draft EIR for the project was circulated for a 45-day public review period beginning on August 23, 2022, and ending October 7, 2022. A total of 12 comment letters were received on the Draft EIR during the comment period. Three additional comment letters received after October 7, 2022, are also included and addressed herein.

Section 15088 of the *CEQA Guidelines* requires that the lead agency evaluate comments on environmental issues received from persons and agencies that reviewed the Draft EIR and prepare a written response addressing the comments received. The response to comments is contained in this Volume 4, Chapter 7 of the EIR. Draft EIR Volumes 1, 2, and 3, and this Volume 4 together constitute the Final EIR.

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7.2 Revisions to the Draft EIR

The revisions that follow were made to the text of the Draft EIR. Amended text is identified by page number. Additions to the Draft EIR text are shown with underline and text removed from the Draft EIR is shown with ~~strikethrough~~. The revisions, as outlined below, fall within the scope of the original project analysis included in the Draft EIR and do not result in an increase to any identified impacts or produce any new impacts. No new significant environmental impact would result from the changes or from a new mitigation measure proposed to be implemented. Therefore, no significant revisions have been made which would require recirculation of the Draft EIR pursuant to CEQA Guidelines Section 15088.5 (Recirculation of an EIR Prior to Certification).

Chapter 1, Page 1-1

The first paragraph of Draft EIR page 1-1 is revised as shown in underline (inserted) and strikethrough (deleted) text as follows:

The Gem Hill Quarry Project (project) is a proposal by CalPortland Company (CalPortland; the project proponent) which proposes a Conditional Use Permit (CUP 45, Map 214) to allow for an approximate 210-acre surface mining and reclamation plan, including an approximate 82-acre project disturbance area, and an off-site ~~a surface mining operation and development of a reclamation plan on approximately 82.2 acres of an approximately 210-acre reclamation plan boundary, which would utilize a 0.75-acre primary access road outside of such reclamation plan boundary to provide access to/from Mojave Tropic Road...~~

Chapter 1, Figure 1-3

Draft EIR Figure 1-3, *Aerial Photograph Map*, is revised to replace the text in the legend that read “82-acre surface mining and reclamation plan” to instead read “82-acre project disturbance area”. The revised figure is included as **Attachment 1** of Volume 4.

Chapter 1, Page 1-18

The second paragraph of Draft EIR page 1-18 is revised as shown in underline (inserted) and strikethrough (deleted) text as follows:

Kern County also considered a phased approach alternative to reduce adverse visual impacts. The phased approach alternative would have required mining to be restricted to certain areas within the ~~3035~~3035-acre quarry footprint and for overburden placement to be restricted to certain areas within the overburden stockpile areas with restricted areas adjusted over time as operations progressed. However, it is unknown whether the size of the site and proposed quarry would allow for a phased approach and the County anticipates that mining to the proposed depth within the ~~3035~~3035-acre quarry footprint may be infeasible to accomplish with limited and phased areas of disturbance. Therefore, the phased approach alternative is not

considered to be a feasible option for implementation of proposed mining activities and an ineffective solution to address potential visual impacts.

Chapter 1, Page 1-35

The first paragraph of Mitigation Measure MM 4.4-2 on page 1-35 of the Draft EIR is revised as shown in underline (inserted) text as follows:

MM 4.4-2 During initial excavation, the services of Native American Tribal Monitors (at the discretion of tribal consulting parties), working under the supervision of the Lead Archaeologist as identified through consultation with appropriate Native American tribes, shall be retained by the project proponent/operator to monitor, on a full-time basis, ground-disturbing activities associated with project-related construction activities, as follows: ...

Chapter 1, Page 1-36 and 1-37

Mitigation Measure MM 4.4-3 on pages 1-36 through 1-37 of the Draft EIR is revised as shown in underline (inserted) text as follows:

MM 4.4-3 In the event archaeological or historical resources are encountered during ground-disturbing activities, the proposed project contractor shall cease any ground-disturbing activities within 50 feet of the find and notify the Kern County Planning and Natural Resources Department. If such resources are located on lands administered by the California State Lands Commission (CSLC) (i.e., APN 345-032-02), the CSLC Staff Attorney shall also be notified, and coordination and consultation activities described herein shall include coordination and consultation with CSLC. The Lead Archaeologist shall evaluate the significance of the resource(s) and recommend appropriate treatment measures. Per State CEQA Guidelines Section 15126.4(b)(3), proposed project redesign and preservation in place shall be the preferred means to avoid impacts to significant archaeological or historical resources. Consistent with State CEQA Guidelines Section 15126.4(b)(3)(C), if it is demonstrated that resources cannot be avoided, the Lead Archaeologist shall develop additional treatment measures in consultation with Kern County, which may include data recovery or other appropriate measures. Kern County shall consult with the project proponent and appropriate Native American representatives in determining appropriate treatment for unearthed cultural resources if the resources are prehistoric or Native American in nature; this consultation may also be conducted in advance of earth-disturbing work through a memorandum of agreement and/or an Unanticipated Discoveries Treatment Plan. Archaeological materials recovered during any

investigation shall be presented for curation at an accredited curation facility. The Lead Archaeologist shall prepare a report documenting evaluation and/or additional treatment of the resource. A copy of the report shall be provided to the Kern County Planning and Natural Resources Department and to the Southern San Joaquin Valley Information Center. The final disposition of archaeological or historical resources recovered on State lands under the jurisdiction of the CSLC must be approved by the CSLC.

Chapter 3, Page 3-27

The second bullet of **Section 3.5, Project Objectives**, is revised as shown in underline (inserted) and strikethrough (deleted) text as follows:

Provide for ~~maximum~~ annual production of ~~up to~~ approximately 500,000 tons of pozzolanic volcanic tuff materials, which would reduce CalPortland’s CO₂ footprint by ~~as much as~~ approximately 500,000 tons of CO₂ annually.

Chapter 3, Page 3-28

Table 3-8, Proposed Discretionary Actions/Required Approvals, on page 3-28 of the Draft EIR is revised to add information as shown in underline (inserted) text as follows.

Agency	Required Plan or Approval
State	
<u>California State Lands Commission (CSLC)</u>	<ul style="list-style-type: none"> • <u>Application A2481 for an amendment to Lease No. PRC 9504, a General Lease – Right-of-Way Use, pertaining to the project primary access road for the project.</u>

Chapter 3, Figure 3-3

Draft EIR **Figure 3-3, Aerial Photograph Map**, is revised to replace the text in the legend that read “82-acre surface mining and reclamation plan” to instead read “82-acre project disturbance area”. The revised figure is included as **Attachment 2** of Volume 4.

Chapter 4, Page 4.4-26

The first paragraph of Mitigation Measure MM 4.4-2 on page 4.4-26 of the Draft EIR is revised as shown in underline (inserted) text as follows:

MM 4.4-2 During initial excavation, the services of Native American Tribal Monitors (at the discretion of tribal consulting parties), working under the supervision of the Lead Archaeologist as identified through consultation with appropriate Native American tribes, shall be retained by the project proponent/operator to monitor, on

a full-time basis, ground-disturbing activities associated with project-related construction activities, as follows: ...

Chapter 4, Page 4.4-26 and 4.4-27

Mitigation Measure MM 4.4-3 on pages 4.4-26 and 4.4-27 of the Draft EIR is revised as shown in underline (inserted) and strikethrough (deleted) text as follows:

- MM 4.4-3** In the event archaeological or historical resources are encountered during ground-disturbing activities, the proposed project contractor shall cease any ground-disturbing activities within 50 feet of the find and notify the Kern County Planning and Natural Resources Department. If such resources are located on lands administered by the California State Lands Commission (CSLC) (i.e., APN 345-032-02), the CSLC Staff Attorney shall also be notified, and coordination and consultation activities described herein shall include coordination and consultation with CSLC. The Lead Archaeologist shall evaluate the significance of the resource(s) and recommend appropriate treatment measures. Per State CEQA Guidelines Section 15126.4(b)(3), proposed project redesign and preservation in place shall be the preferred means to avoid impacts to significant archaeological or historical resources. Consistent with State CEQA Guidelines Section 15126.4(b)(3)(C), if it is demonstrated that resources cannot be avoided, the Lead Archaeologist shall develop additional treatment measures in consultation with Kern County, which may include data recovery or other appropriate measures. Kern County shall consult with the project proponent and appropriate Native American representatives in determining appropriate treatment for unearthened cultural resources if the resources are prehistoric or Native American in nature; this consultation may also be conducted in advance of earth-disturbing work through a memorandum of agreement and/or an Unanticipated Discoveries Treatment Plan. Archaeological materials recovered during any investigation shall be presented for curation at an accredited curation facility. The Lead Archaeologist shall prepare a report documenting evaluation and/or additional treatment of the resource. A copy of the report shall be provided to the Kern County Planning and Natural Resources Department and to the Southern San Joaquin Valley Information Center. The final disposition of archaeological or historical resources recovered on State lands under the jurisdiction of the CSLC must be approved by the CSLC.

Chapter 4, Page 4.9-5

Page 4.9-5 of the Draft EIR is revised to add the following as a second paragraph under the heading Groundwater Quality, as shown in underline (inserted) text, and the referenced additional appendix (**Appendix I.4**, *Analytical Report, Laboratory Job ID: 570-113190-1*) is included as **Attachment 3** of Volume 4.

A TCLP extraction was completed on a sample from the project site pursuant to the SW846 “Test Methods for Evaluating Solid Waste, Physical/Chemical Methods,” Third Ed. 1986 (as updated). A TCLP extraction is a conservative analysis of the potential for heavy metals or other potentially toxic elements to leach from the project’s proposed overburden stockpiles because the test methodology involves acid digestion. In the natural environment, such as where the project site is located, the slowest rates of weathering occur in hot, dry climates. **Table 4.9-1a, Gem Hill Quarry TCLP Analysis Results**, summarizes the results of the TCLP analysis. This data and the analytical report containing sampling information and testing results is included as **Appendix I.4, Analytical Report, Laboratory Job ID: 570-113190-1.** (Eurofins 2022)

Table 4.9-1a: Gem Hill Quarry TCLP Analysis Results

Analyte	Result from Gem Hill Sample (ppm)	TCLP limit (pp)
<u>Arsenic</u>	<u>Non detect</u>	<u>5</u>
<u>Barium</u>	<u>0.194</u>	<u>100</u>
<u>Cadmium</u>	<u>Non detect</u>	<u>1</u>
<u>Chromium</u>	<u>Non detect</u>	<u>5</u>
<u>Lead</u>	<u>Non detect</u>	<u>5</u>
<u>Mercury</u>	<u>Non detect</u>	<u>0.2</u>
<u>Selenium</u>	<u>Non detect</u>	<u>1</u>

Chapter 4, Page 4.9-17

Page 4.9-17 of the Draft EIR is revised to add the following as a new first paragraph under the heading “Degradation of Surface Water and Groundwater Quality” in the discussion of Impact 4.9-1. Revisions are as shown in underline (inserted) text as follows:

As discussed above, a TCLP extraction was completed on a sample from the project site pursuant to the SW846 “Test Methods for Evaluating Solid Waste, Physical/Chemical Methods,” Third Ed. 1986 (as updated). A TCLP extraction is a conservative analysis of the potential for heavy metals or other potentially toxic elements to leach from overburden stockpiles because the test methodology involves acid digestion of the sample. In the natural environment, the slowest rates of weathering occur in hot, dry climates. Due to the project site’s dry climate, the overburden stockpiles would primarily be subject to physical (rain, wind, and other atmospheric conditions) and biological weathering (roots and other biological organisms) which result in disaggregation. The overburden at the project site is

less likely to be subject to chemical weathering (acid digestion), which changes the molecular structure of the material, which typically occurs in hot, wet climates. The results of the TCLP analysis presented above in Table 4.9-1a, Gem Hill Quarry TCLP Analysis Results, indicate that the project site's material (including overburden) does not have levels of heavy metals or other potentially toxic elements that would leach from the project site's overburden.

Chapter 6, Pages 6-3 and 6-4

The first paragraph of Section 6.2.2 on pages 6-3 and 6-4 of the Draft EIR is revised as shown in underline (inserted) and strikethrough (deleted) text as follows:

Kern County considered a phased approach alternative to reduce adverse visual impacts. The phased approach alternative would have required mining to be restricted to certain areas within the ~~3035~~-acre quarry footprint and for overburden placement to be restricted to certain areas within the overburden stockpile areas with restricted areas adjusted over time as operations progressed. Conceptually, restricting mining and overburden placement to certain areas in a phased manner could provide for reduced periods and areas of visible mine-related activities and disturbance on the site while allowing for the same availability to overall reserves of the project area. However, it is unknown whether the size of the site and proposed quarry would allow for a phased approach and the County anticipates that mining to the proposed depth within the ~~3035~~-acre quarry footprint may be infeasible to accomplish with limited and phased areas of disturbance.

Chapter 10, Page 10-4

Page 10-4 of the Draft EIR is revised as shown in underline (inserted) text to add the reference as follows:

Eurofins, 2022. Analytical Report Laboratory Job ID: 570-113190-1. Eurofins Calscience. Tustin, California. October 18, 2022. Included as Appendix I.4 to this EIR.

7.3 Response to Comments

A list of agencies and interested parties who have commented on the Draft EIR is provided below. A copy of each numbered comment letter and a lettered response to each comment are provided following this list.

Federal Agencies

Comment Letter 1: U.S. Bureau of Land Management (BLM)–Kevin Schrecengostt (October 5, 2022)

State Agencies

Comment Letter 2: California State Lands Commission (CSLC)–Nicole Dobroski (October 5, 2022)

Comment Letter 3: Lahontan Regional Water Quality Control Board (RWQCB) (October 4, 2022)

Local Agencies

Comment Letter 4: Kern County Public Works Department–County Surveyor (September 12, 2022)

Comment Letter 5: Kern County Fire Department–Regina Arriaga/Jim Killam (September 8, 2022)

Comment Letter 6: Kern County Superintendent of Schools–Andrea Watson (September 16, 2022)

Comment Letter 7: Eastern Kern Air Pollution Control District–Glen Stephens (October 4, 2022)

Interested Parties

Comment Letter 8: San Manuel Band of Mission Indians–Ryan Nordness (September 27, 2022)

Comment Letter 9: Zane Revai (August 28, 2022)

Comment Letter 10: Jeffrey Douglass (August 27, 2022)

Comment Letter 11: Ann Kahn (September 15, 2022)

Comment Letter 12: Erin Hambrick (October 7, 2022)

Comments Received After October 7, 2022 Close of Public Comment Period

Comment Letter 13: Kern County Public Works Department–Floodplain Management Section (October 12, 2022)

Comment Letter 14: Kern County Public Works Department–Development Review Division (October 11, 2022)

Comment Letter 15: Santa Rosa Rancheria Tachi-Yokut Tribe (October 19, 2022)

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Federal Agencies

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Randall Cates

From: Schrecengost, Kevin L <kschrecengost@blm.gov>
Sent: Wednesday, October 5, 2022 2:37 PM
To: Randall Cates
Subject: Gem Hill Quarry Project

CAUTION: This email originated from outside of the organization. Do not click links, open attachments, or provide information unless you recognize the sender and know the content is safe.

Hi Randall,

I'm a new geologist at the BLM Ridgecrest Field Office. I presume we will come across each other again in the future, and I wanted to take the opportunity to introduce myself.

We received the Notice of Availability for Public Review on the Draft EIR prepared for the Gem Hill Quarry Project. I've looked at the relevant sections and there are no apparent conflicts with BLM Surface Lands or mineral rights relevant to this project. Please let me know if there's anything else with which we can assist you. 1-A

Best,
Kevin



Kevin L. Schrecengost | Geologist
U.S. Department of the Interior, Regions 8 & 10
Bureau of Land Management, Ridgecrest Field Office
300 S. Richmond Rd, Ridgecrest, CA 93555
Desk | 760-384-5451

**Response to Comment Letter 1: U.S. Bureau of Land Management (BLM)–
Kevin Schrecengostt (October 5, 2022)**

- 1-A:** The comment advises of the U.S. Bureau of Land Management (BLM) review conclusion that there are no apparent conflicts with BLM Surface Lands or mineral rights and the project. The comment does not address the adequacy of the Draft EIR and is noted for the record.

State Agencies

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CALIFORNIA STATE LANDS COMMISSION

100 Howe Avenue, Suite 100-South
Sacramento, CA 95825-8202



Established in 1938

JENNIFER LUCCHESI, Executive Officer
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from Voice Phone **800.735.2929**

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October 5, 2022

File Ref: SCH # 2021110076

Randall Cates
Kern County Planning and Natural
Resources Department
2700 "M" Street, Suite 100
Bakersfield, CA 93301

VIA ELECTRONIC MAIL ONLY (CatesR@kerncounty.com)

**Subject: Draft Environmental Impact Report for the Gem Hill Quarry Project by
CalPortland Company Project, Kern County**

Dear Randall Cates:

The California State Lands Commission (Commission) staff has reviewed the subject Draft Environmental Impact Report (EIR) for the Gem Hill Quarry Project (Project) proposed by CalPortland Company (Project proponent). Kern County, as the public agency with regulatory authority over the Project, is the lead agency under the California Environmental Quality Act (CEQA) (Pub. Resources Code, § 21000 et seq) for preparation of the EIR. The Commission is a trustee agency for projects that could directly or indirectly affect school land and accompanying resources or uses. Additionally, because the Project involves work on State school land, the Commission will act as a responsible agency.

Commission Jurisdiction and School Lands

In 1853, the U.S. Congress granted to California nearly 5.5 million acres of land for the specific purpose of supporting public schools. In 1984, the State Legislature passed the School Land Bank Act (Act), which established the School Land Bank Fund and appointed the Commission as its trustee (Pub. Resources Code, § 8700 et seq.). The Act directed the Commission to develop school lands into a permanent and productive resource base for revenue generating purposes. The Commission manages approximately 462,830 +/- acres of school lands still held in fee ownership by the state and the reserved mineral interests on an additional 790,000 +/- acres where the surfaces estates have been sold. Revenue from school lands is deposited in the State

Treasury for the benefit of the State Teachers' Retirement Fund (Pub. Resources Code, § 6217.5).

The Project proponent has applied to the Commission (application A2481) for an amendment to Lease No. PRC 9504, a General Lease – Right-of-Way Use, of State-owned School land in a portion of Section 36, Township 10 North, Range 13 West, SBM, northwest of the Town of Rosamond, Kern County. The leased right-of-way is limited to the section of an existing unnamed dirt road that provides access from Mojave-Tropico Road across APN 345-032-02 to land owned by the Project proponent.

Project Description

The Project is located on the West side of Mojave Tropico Road, approximately 2 miles south of Backus Road, and approximately 4 miles northwest of the unincorporated community of Rosamond in the County of Kern. The Project proponent has proposed a surface mining operation and development of a reclamation plan on 82 acres of an approximately 210-acre reclamation plan boundary, which would utilize a 0.75-acre primary access road outside of such reclamation plan boundary to provide access to and from Mojave Tropico Road.

From the Project Description, Commission staff understands that the proposed Project would increase the existing road width within APN 345-032-02 from 12 feet to 24 feet, with two 6-foot-wide shoulders on each side (for a total width of 36 feet). Class II Road Base would be installed and compacted to 90 percent or greater, and the road would be crowned to provide for proper drainage.

Alternative B, Reduced Footprint Alternative, as identified in the EIR is considered to be the environmentally superior alternative for the purpose of this analysis.

Environmental Review

Commission staff requests that the County consider the following comments when preparing the Final EIR to ensure that impacts to State school land are adequately analyzed for the Commission's review and use of the EIR to support any Commission action related to the current application and any future amendments for Lease No. PRC 9504.

Project Description:

In Section 3.6, Table 3-8, *Proposed Discretionary Actions/Required Approvals*, the Commission should be listed as a responsible agency, as a lease is required for widening, use, and maintenance of the primary access road on lands managed by the State.

2-A

Cultural Resources

- 1. Title to Resources: The Final EIR should mention that the title to archaeological sites and historic or cultural resources on jurisdictional lands is vested in the state and

2-B

under the jurisdiction of the California State Lands Commission (Pub. Resources Code, § 6301). Commission staff requests that the County consult with Staff Attorney Jamie Garrett (contact information below), should any cultural resources on State lands be discovered during construction of the proposed Project. In addition, Commission staff requests that the following statement be included in the EIR's Mitigation and Monitoring Plan: "The final disposition of archaeological or historical resources recovered on State lands under the jurisdiction of the California State Lands Commission must be approved by the Commission."

↑
2-B
cont.

Thank you for the opportunity to comment on the Draft EIR for the Project. As a trustee and responsible agency, Commission staff requests that you consult with us on this Project and keep us advised of changes to the Project Description and all other important developments. Please send copies of future Project-related documents, including electronic copies of the certified EIR, an accessible version (per Assembly Bill No. 434) of the Mitigation Monitoring and Reporting Program (MMRP), Notice of Determination (NOD), approving resolution, and CEQA Findings and Statement of Overriding Considerations when they become available.

Please refer questions concerning environmental review to Cynthia Herzog, Senior Environmental Scientist, at (916) 574-1310 or cynthia.herzog@slc.ca.gov. For questions concerning archaeological or historic resources under Commission jurisdiction, please contact Staff Attorney Jamie Garrett, at (916) 574-0398 or jamie.garrett@slc.ca.gov. For questions concerning Commission leasing jurisdiction, please contact Drew Simpkin, Public Land Management Specialist, at 916-574-2275 or .

Sincerely,



Nicole Dobroski, Chief
Division of Environmental Planning
and Management

cc: Office of Planning and Research
C. Herzog, Commission
D. Simpkin, Commission

**Response to Comment Letter 2: California State Lands Commission (CSLC)–
Nicole Dobroski (October 5, 2022)**

2-A: The commenter requests that the California State Lands Commission (CSLC) be listed as a responsible agency for the Project. The comment is noted for the record.

Table 2-1 of the DEIR stipulates in part that the California State Lands Commission (CSLC) identifies that because the project involves work on State school land, the CSLC is a trustee agency and will also act as a responsible agency under CEQA.

Table 3-8 has been revised to identify the CSLC as a responsible agency, as shown above in Chapter 7.2 of the EIR, as well as below.

Table 3-1 Proposed Discretionary Actions/Required Approvals	
Agency	Required Plan or Approval
Local	
Kern County	<ul style="list-style-type: none"> • Certification of an Environmental Impact Report • Adoption of a Mitigation Measure Monitoring Program (MMMP) • Adoption of CEQA Findings pursuant to State CEQA Guidelines Section 15091 • Adoption of CEQA Statement of Overriding Considerations pursuant to State CEQA Guidelines Section 15093 • Approval of a Conditional Use Permit • Approval of a Reclamation Plan • Approval of a Water Well Permit • Permit for Explosives (Sheriff's Office)
Regional	
Eastern Kern Air Pollution Control District (EKAPCD)	<ul style="list-style-type: none"> • Fugitive Dust Emission Control Plan
State	
Regional Water Quality Control Board, Lahontan Region (Lahontan RWQCB)	<ul style="list-style-type: none"> • Waste Discharge Permit, if required
California Department of Fish and Wildlife (CDFW)	<ul style="list-style-type: none"> • California Fish and Game Code Section 1602 Streambed Alteration Agreement
State Water Resources Control Board (SWRCB)	<ul style="list-style-type: none"> • National Pollutant Discharge Elimination System (NPDES) Industrial General Permit and Stormwater Pollution Prevention Plan (SWPPP) • NPDES Industrial General Permit and SWPPP or Notice of Non-Applicability (NONA)
<u>California State Lands Commission (CSLC)</u>	<ul style="list-style-type: none"> • <u>Application A2481 for an amendment to Lease No. PRC 9504, a General Lease – Right-of-Way Use, pertaining to the project primary access road for the project.</u>

Table 3-1 Proposed Discretionary Actions/Required Approvals

Agency	Required Plan or Approval
<i>Federal</i>	
U.S. Fish and Wildlife Service (USFWS)	<ul style="list-style-type: none"> Approval of appropriate permits, if required

2-B: The commenter states that the Final EIR note that title to archaeological, historic, or cultural resources found on CSLC jurisdictional lands are vested in the state under the CSLC’s jurisdiction. The commenter further requests that the County consult with CSLC staff attorney if any resources are discovered on CSLC lands, and requests a mitigation measure concerning disposition of resources found on CSLC lands. The comment is noted for the record.

The Lead Agency is proposing additional language to Mitigation Measure 4.4-3 in response to the comment, as shown above in Chapter 7.2 of the Final EIR, as well as below.

MM 4.4-3 In the event archaeological or historical resources are encountered during ground-disturbing activities, the proposed project contractor shall cease any ground-disturbing activities within 50 feet of the find and notify the Kern County Planning and Natural Resources Department. If such resources are located on lands administered by the California State Lands Commission (CSLC) (i.e., APN 345-032-02), the CSLC Staff Attorney shall also be notified, and coordination and consultation activities described herein shall include coordination and consultation with CSLC. The Lead Archaeologist shall evaluate the significance of the resource(s) and recommend appropriate treatment measures. Per State CEQA Guidelines Section 15126.4(b)(3), proposed project redesign and preservation in place shall be the preferred means to avoid impacts to significant archaeological or historical resources. Consistent with State CEQA Guidelines Section 15126.4(b)(3)(C), if it is demonstrated that resources cannot be avoided, the Lead Archaeologist shall develop additional treatment measures in consultation with Kern County, which may include data recovery or other appropriate measures. Kern County shall consult with the project proponent and appropriate Native American representatives in determining appropriate treatment for unearthed cultural resources if the resources are prehistoric or Native American in nature; this consultation may also be conducted in advance of earth-disturbing work through a memorandum of agreement and/or an Unanticipated Discoveries Treatment Plan. Archaeological materials recovered during any investigation shall be presented for curation at an accredited curation facility. The Lead Archaeologist shall prepare a report documenting evaluation and/or additional treatment of the resource. A copy of the report shall be provided to the Kern

County Planning and Natural Resources Department and to the Southern San Joaquin Valley Information Center. The final disposition of archaeological or historical resources recovered on State lands under the jurisdiction of the CSLC must be approved by the CSLC.



Lahontan Regional Water Quality Control Board

October 4, 2022

File: CEQA
Kern County

Randall Cates, Planner III
Kern County Planning and Natural Resources
2700 M Street Suite 100
Bakersfield, CA 93301
Phone (661) 862-8612
catesr@kerncounty.com

Comments on the Draft Environmental Impact Report, Gem Hill Quarry Project by CalPortland Company (PP21404), Kern County, State Clearinghouse No. 2021110076

Lahontan Regional Water Quality Control Board (Water Board) staff received the Draft Environmental Impact Report (DEIR) for the above-referenced project (Project) on August 24, 2022. The DEIR, prepared by Kern County, was submitted in compliance with provisions of the California Environmental Quality Act (CEQA) in order to solicit input on the potential impacts to the environment and ways in which those significant effects are proposed to be avoided or mitigated. Water Board staff, acting as a responsible agency, is providing these comments to specify the scope and content of the environmental information germane to our statutory responsibilities pursuant to CEQA Guidelines, California Code of Regulations, title 14, section 15096. Based on our review of the DEIR, we recommend the following additional environmental review: (1) evaluate the leachability of the proposed overburden stockpile materials and the potential for heavy metals or other elements to be entrained in stormwater or percolated into the ground; (2) classify the group of mining waste the overburden represents; and (3) confirm whether the Project is subject to water use restrictions imposed within the Antelope Valley adjudicated groundwater basin. Our comments are outlined below.

3-A

PROPOSED PROJECT

The Project proponent has submitted a Conditional Use permit (CUP) to Kern County to allow a surface mining operation and development of a reclamation plan on 82 acres of an approximately 210-acre site. The Gem Hill site proposes an open pit, multibench, drill and blast mine. The target material is naturally occurring pozzolan (volcanic tuff), used in the production of cement. No crushing or processing of mined material would occur onsite. The life of the operation is proposed to be 30 years. Annual mineral production is estimated to be 500,000 tons, and the maximum total mineral production is estimated to be 15,000,000 million tons. The total anticipated production of mine

PETER C. PUMPHREY, CHAIR | MICHAEL R. PLAZIAK, PG, EXECUTIVE OFFICER

waste (overburden) is estimated to be 600,000 tons, which would be disposed in two onsite stockpiles. The Gem Hill site is located within the Antelope Hydrologic Unit, Gloster Hydrologic Area and overlies the Antelope Valley and Fremont Valley groundwater basins.

WATER BOARD’S AUTHORITY

All groundwater and surface waters are considered waters of the State. Surface waters include streams, lakes, ponds, and wetlands, and may be ephemeral, intermittent, or perennial. All waters of the State are protected under California law. State law assigns responsibility for protection of the quality of waters of the State in the Lahontan Region to the Lahontan Water Board. Some waters of the State are also waters of the United States. The Federal Clean Water Act (CWA) provides additional protection for those waters of the State that are also waters of the United States.

The *Water Quality Control Plan for the Lahontan Region* (Basin Plan) contains policies that the Water Board uses with other laws and regulations to protect the quality of waters of the State within the Lahontan Region. The Basin Plan sets forth water quality standards for surface water and groundwater of the Region, which include designated beneficial uses as well as narrative and numerical objectives which must be maintained or attained to protect those uses. The Basin Plan can be accessed via the Water Board’s web site at http://www.waterboards.ca.gov/lahontan/water_issues/programs/basin_plan/references.shtml.

COMMENTS ON THE PROPOSED PROJECT

Based on our review of the DEIR, we recommend that the following issues be considered and addressed in applicable sections of the final environmental document.

1. The basaltic overburden and associated hydrothermal minerals are proposed to be blasted then transported to onsite stockpiles. Blasting will increase the surface area to volume ratio of this material, increasing the chemical reactivity. Project conditions such as mitigation measure 4.2-2 D.2 require water use for dust control, and weathering conditions on the ground surface will likely increase weathering rates of non-target minerals in the overburden. Water Board staff recommends a representative sample(s) of the proposed overburden material undergo a Toxicity Characteristic Leaching Procedure (TCLP) extraction to evaluate the potential leachability of constituents. Our concern is the potential for heavy metals or other potentially toxic elements to leach from the overburden and then become entrained in stormwater or percolate into the ground. Depending on the leachability of the overburden, additional mitigation measures may be required to protect the quality of surface water and groundwater.
2. The TCLP analyses are necessary in order to characterize the overburden and classify the group of mining waste that it represents in accordance with California Code of Regulations (CCR), title 27, section 22480. Depending on the waste



Comment Letter 3: Lahontan RWQCB (October 4, 2022)

Randall Cates

- 3 -

October 4, 2022

classification, certain waste containment, construction standards, and monitoring requirements may be applicable. Any Group A or Group B mining waste will require authorization under individual waste discharge requirements issued by the Lahontan Water Board in compliance with title 27, CCR. Group C mining wastes are generally those types of waste that would otherwise be in compliance with water quality regulations except for turbidity and would require robust precipitation and drainage controls be installed and maintained throughout the life of the Project.

↑
3-C
Cont.

- 3. The proposed mine site and subterranean basaltic aquifer is located between two groundwater basins, Antelope Valley and Fremont Valley. The Project proposes a supply well on the north end of the property to be drilled into this basaltic aquifer to provide water for Project activities at a rate of 18-acre feet per year. The basaltic aquifer is thought to be distinct and isolated from the adjacent groundwater basins and that the basaltic aquifer has negligible in-situ groundwater recharge and is instead recharged from the adjacent groundwater basins. Water Board staff recommend consultation with the Antelope Valley Water Master to confirm whether the Project is subject to water use restrictions imposed within the Antelope Valley adjudicated groundwater basin.

↑
3-D

Thank you for the opportunity to comment. If you have any questions regarding this letter, please contact me at (760) 243-444 (andrew.robinson@waterboards.ca.gov) or Jan Zimmerman, Senior Engineering Geologist, at (760) 241-7376 (jan.zimmerman@waterboards.ca.gov).



Andrew Robinson
Environmental Scientist

cc: California Department of Fish and Wildlife (R6LSA@wildlife.ca.gov)
State Clearinghouse (SCH 2021110076) (state.clearinghouse@opr.ca.gov)

Response to Comment Letter 3: Lahontan RWQCB (October 4, 2022)

3-A: The commenter provides background on its receipt of the Draft EIR, the Project, and the Lahontan Regional Water Quality Control Board's (Regional Board) authority over the Project. The comments are noted for the record.

The Lead Agency notes that the comment does not raise a significant environmental concern and need not be addressed in these responses to comments. (14 Cal. Code Regs., 15088(c).) Notwithstanding, the Lead Agency notes that the commenter states that the Project Site overlies the Antelope Valley and Fremont Valley Groundwater Basins. This background fact is not entirely accurate. As indicated in the Draft EIR, the Project Site overlies its own basalt aquifer, which is not part of a recognized groundwater basin, except for a small area in the southern portion of the Project Site, where the Antelope Valley Groundwater Basin extends into the Project Site boundary. (Draft EIR p. 4.6-9.)

3-B: The commenter recommends that overburden materials undergo a Toxicity Characteristic Leaching Procedure (TCLP) extraction to evaluate the potential leachability of overburden constituents. The commenter is concerned about the potential for heavy metals or other potentially toxic elements to leach from the overburden and become entrained in stormwater or percolate into the ground. The comment is noted for the record.

A TCLP extraction was completed on a sample from the Project Site pursuant to the SW846 "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods", Third Ed. 1986 (as updated). A TCLP extraction is a conservative analysis of the potential for heavy metals or other potentially toxic elements to leach from the overburden because the test methodology involves acid digestion of the sample. In reality, the slowest rates of weathering occur in hot, dry climates. Due to the Project Site's dry climate, the overburden will primarily be subject to physical (rain, wind, and other atmospheric conditions) and biological weathering (roots and other biological organisms) which result in disaggregation. The overburden is less likely to be subject to chemical weathering (acid digestion), which changes the molecular structure of the material, which typically occurs in hot, wet climates.

The following table summarizes the results of the analysis.

Analyte	Result from Gem Hill Sample (ppm)	TCLP limit (pp)
Arsenic	Non detect	5
Barium	0.194	100
Cadmium	Non detect	1
Chromium	Non detect	5
Lead	Non detect	5
Mercury	Non detect	0.2
Selenium	Non detect	1

The aforementioned TCLP extraction information is included in an Analytical Report prepared by Eurofins Calscience (2022), which is included in Chapter 7 of the Final EIR as Attachment 3.

In summary, these results support the conclusion in the EIR that the Project Site's material (including overburden) does not have levels of heavy metals or other potentially toxic elements that will leach from the Project Site's overburden. Accordingly, no additional mitigation measures to protect the quality of surface water or groundwater are proposed.

- 3-C:** The commenter states that the TCLP analysis is necessary to determine whether the Project Site's overburden could be classified as Group A or Group B waste under Title 27 of the California Code of Regulations, section 22480. The comment is noted for the record.

As discussed above, a TCLP extraction was completed on a sample from the Project Site pursuant to the SW846 "Test Methods for Evaluating Solid Waste, Physical/Chemical Methods", Third. Ed. 1986 (as updated). These results demonstrated that Project Site material is not hazardous. No individual waste discharge requirements are required.

Further, proposed Mitigation Measure 4.9-1 requires the applicant to prepare and submit a SWPPP before ground-disturbing activities. The SWPPP will be designed to minimize runoff and specify best management practices to prevent pollutants from contacting stormwater. (Draft EIR p. 1-44.) This mitigation measure will ensure project impacts to water quality remain less-than significant.

- 3-D:** The commenter recommends consultation with the Antelope Valley Water Master to confirm whether the Project is subject to water use restrictions imposed within the Antelope Valley adjudicated groundwater basin. The comment is noted for the record. As indicated in the Draft EIR, the proposed water well for Project water needs is located outside of, and has no connectivity to, the Antelope Valley Groundwater Basin. (Draft EIR, p. 4.9-3.) The Project is not subject to water use restrictions imposed with the adjudicated basin.

SESPE Consulting, Inc. prepared the Water Supply Assessment Gem Hill Project (2020) and Technical Memorandum in Support of the Gem Hill Water Supply Assessment (2022). As indicated in the Draft EIR, the Project site is located outside of an adopted groundwater management plan, except for an approximately 1.4-acre triangular section of the Antelope Valley Groundwater Basin that extends onto the Project site's southern edge. The Fremont Valley Groundwater Basin is located to the north of the site. (Draft EIR, p. 4.9-3.)

The Project's proposed well will be located in a distinct basalt aquifer from both the Antelope Valley Groundwater Basin and the Fremont Valley Groundwater Basin; however, there may be some inflow from the Fremont Valley Groundwater Basin to the basalt aquifer. There will be no inflow from the Antelope Valley Groundwater Basin to the basalt aquifer based on the regional hydraulic gradients and site geology. (See Draft EIR, p. 4.9-5.)

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Local Agencies

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Comment Letter 4: Kern County Public Works Department–County Surveyor (September 12, 2022)

Randall Cates

From: Andres Arias
Sent: Monday, September 12, 2022 4:32 PM
To: Randall Cates
Cc: Brian Blacklock
Subject: DEIR Gem Hill Quarry Project PP21404
Attachments: DEIR - Gem Hill Quarry - PP21404 - Planning Memo.pdf; DEIR - Gem Hill Quarry - PP21404 - Survey Office Memo.pdf

Randall,

After reviewing the Draft Environmental Impact Report, our office comments from previous review still stand. Please see attached. If you have any questions let me know.

4-A

Regards,

Andres Arias
Engineering Tech
County Surveyor's Office
Kern County Public Works Dept.
P: 661-862-8959

Comment Letter 4: Kern County Public Works Department – County Surveyor (September 12, 2022)

CRAIG M. POPE, P.E., DIRECTOR
ADMINISTRATION & HUMAN RESOURCES
FINANCE & ENGINEERING
BUILDING & CODE
OPERATIONS



2700 "M" STREET, Suite 400
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Toll Free: (800) 652-8378 Option 6
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November 17, 2021

To: Lorelei Oviatt, Director
Planning and Natural Resources Department

Randall Cates, Planner III

From: Brian Blacklock, County Surveyor

By: Andres Arias, Engineering Tech III

Phone: 28959

Subject: Initial Study/Notice of Draft Environmental Impact Report for Gem Hill Quarry Project by CalPortland Company (PP21404)

I have reviewed the above noted project DEIR and recommend the following conditions be placed on the Conditional Use Permits:

1. Prior to issuance of a building or grading permit: All survey monuments shall be tied out by a Licensed Land Surveyor. A corner record for each monument or record of survey shall be submitted to the County Surveyor for review and processing, per Section 8771 of the Professional Land Surveyor's (PLS) Act. 4-B
2. Prior to Final Inspection: All survey monuments that were destroyed during construction shall be re-set or have a suitable witness corner set. A post construction corner record for each monument re-set or a record of survey shall be submitted to the County Surveyor for processing, per Section 8771 of the Professional Land Surveyor's Act. 4-C
3. Upon completion of project: All survey monuments shall be accessible by a Licensed Land Surveyor or their representatives, with prior notice, per Section 8774 of the PLS Act and Civil Code 846.5 (a). 4-D

Thank you for the opportunity to review and comment on this projects initial Study/Notice of preparation of Draft. We are looking forward to reviewing the finalized EIR when available. Should you have any questions please contact me.

**Response to Comment Letter 4: Kern County Public Works Department–
County Surveyor (September 12, 2022)**

- 4-A:** The commenter indicates that the County Surveyor has reviewed the project and requests that certain conditions be placed on the Conditional Use Permits for the project. The County acknowledges this request. Please see specific responses below to each Condition of Approval identified by the commenter.
- 4-B:** The commenter requests the condition that, prior to issuance of a building or grading permit, all monuments be tied out by a Licensed Land Surveyor. The County acknowledges this request; this requirement will be added as a Condition of Approval for the project, as requested. No change to the Draft EIR is required as a result of this comment.
- 4-C:** The commenter requests the condition that, prior to final inspection, all survey monuments destroyed during project construction be reset or have a suitable witness corner set. A postconstruction corner record for each monument reset or a record of survey shall be submitted to the County Surveyor for processing. The County acknowledges this request; this requirement will be added as a Condition of Approval for the project, as requested. No change to the Draft EIR is required as a result of this comment.
- 4-D:** The commenter requests the condition that, upon completion of the project, all survey monuments be accessible by a Licensed Land Surveyor or their representatives. The County acknowledges this request; this requirement will be added as a Condition of Approval for the project, as requested. No change to the Draft EIR is required as a result of this comment.

Office of the Fire Marshal
Kern County Fire Department
Fire Prevention Unit



2820 M St. • Bakersfield, CA 93301 • www.kerncountyfire.org
Telephone 661-391-3310 • FAX 661-636-0466/67 • TTY Relay 800-735-2929

September 8, 2022

Kern County Planning and Natural Resources Department
2800 M St., Bakersfield, CA 93301
Attn: **Randall Cates, Planner III**

Re: Kern County Fire Department Comments Regarding Planning Department Project

To Whom It May Concern:

The Kern County Fire Department (KCFD), as the local fire authority, has received a request for comments regarding Gem Hill Quarry by Cal Portland Company (PP21404); CUP No.45, Map No. 214 (SCH #2021110076). Upon initial review, it has been determined that all new construction will require fire water flowing a minimum 1,500 GPM for 2 hours with 20 PSI residual. All fire access roads to each parcel must meet specifications set forth in Section 503.2 of the California Fire Code and the applicable Appendix and Ordinance sections.

5-A

A more detailed review and project comments will be conducted when the building permit is pulled and plans are submitted to KCFD.

5-B

Please feel free to call our Fire Prevention Office at (661) 391-3310 with any questions.

Respectfully,
Regina Arriaga/Jim Killam
Fire Plans Examiner
Kern County Fire Department

**Response to Comment Letter 5: Kern County Fire Department–
Regina Arriaga/Jim Killam (September 8, 2022)**

5-A: The commenter indicates that upon initial review, it has been determined that all new construction will require fire water flowing a minimum 1,500 GPM for 2 hours with 20 PSI residual. All fire access roads to each parcel must meet specifications set forth in Section 503.2 of the California Fire Code and the applicable Appendix and Ordinance sections.

The County acknowledges the comments provided; such requirements as stated will be made Conditions of Approval for the project. This comment does not otherwise raise a substantive issue on the content of the Draft EIR. The comments provided have been noted for the record and no revisions to the Draft EIR are necessary.

The project proposes to locate an office trailer (referred to as a commercial coach per the Kern County Zoning Ordinance) on the project site. Such commercial coach will require the necessary permit(s) to be secured from the Kern County Public Works Department/Building Inspection Division (BID). As such, site plans will be required to be provided when the project proponent/operator applies for the necessary permit(s) from BID.

5-B: The commenter states that the Kern County Fire Department (KCFD) will provide more detailed review comments at the time of KCFD plan review and building permit issuance. This comment does not raise a substantive issue on the content of the Draft EIR. The comments provided have been noted for the record and revisions to the Draft EIR are not necessary.



Office of Mary C. Barlow ...advocates for children

September 16, 2022

Kern County Planning Department
Attn: Randall Cates, Planner III
2700 M Street, Suite 100
Bakersfield, CA 93301

Our File No.: CO22-0140

RE: DEVELOPER FEES FOR: EIR for Gem Hill Quarry Project; Map 214:25, 26, 35 & 36
(West side of Mojave Tropic Rd and south of Backus Rd.)

Dear Mr. Cates,

This office represents the Southern Kern Unified School District with regard to the imposition of developer fees, and appreciates the opportunity to respond on behalf of the district regarding the proposed project. This letter is limited to addressing the possible effects which the project might have on school facilities created by students attributable to the project. It is not intended to address other possible environmental concerns which might be identified by the district after reviewing it. 6-A

It is our determination that the above mentioned project proposing to allow a surface mining operation and development of a reclamation plan on approximately 82 acres of an approximate 210-acre reclamation plan boundary, utilizing a 0.75-acre primary access road outside of such reclamation plan boundary to provide access to/from Mojave Tropic Rd will have no significant effects on either of these district's facilities so long as statutory school facilities fees, if any, are collected as required by law and that no further mitigation measures regarding school facilities are necessary. 6-B

Thank you for the opportunity to comment on the project. Should you have any questions, or if we can be of any further assistance in this matter, please contact me at 636-4599, or through e-mail at anwatson@kern.org.

Sincerely,

Mary C. Barlow
County Superintendent of Schools

Handwritten signature of Andrea Watson

Andrea Watson, Specialist
School District Facility Services

RECEIVED

SEP 23 2022

Kern County Planning &
Natural Resources Dept.

ALW
cc: District(s)

**Response to Comment Letter 6: Kern County Superintendent of Schools–
Andrea Watson (September 16, 2022)**

- 6-A:** The commenter expresses appreciation for the opportunity to respond on behalf of the district regarding the proposed project. This comment clarifies that the letter’s contents are intended to address possible effects which the project may have on school facilities, and not to comment on any other environmental concerns.
- 6-B:** The commenter provides a brief overview of the entitlements being requested by the project and concludes that no significant effect on the district’s facilities would occur with project implementation, given the appropriate fees and regulations are complied with. As discussed in Section 4.13.4, Public Services, of the Draft EIR, the Lead Agency determined in the Notice of Preparation/Initial Study (NOP/IS) that schools was one of the environmental issue areas which would result in no impacts or less-than-significant impacts. Therefore, no further analysis is required in this EIR based on the scoping review. Nonetheless, all fees applicable to implementation of the project will be collected when the project proponent/operator applies for required building permits. This comment does not otherwise raise a substantive issue on the content of the Draft EIR. The comment has been noted for the record and revisions to the Draft EIR are not necessary.



Eastern Kern
Air Pollution Control District

Glen E. Stephens, P.E.
Air Pollution Control Officer

October 4, 2022

Randall Cates, Planner III
Kern County Planning and Natural Resources Department
2700 “M” Street Suite 100
Bakersfield, CA 93301

SUBJECT: Comments for Gem Hill Quarry Project by CalPortland Company (PP21404)

Dear Mr. Cates:

Eastern Kern Air Pollution Control District (District) is in receipt of the Draft Environmental Impact Report (DEIR) for the Gem Hill Quarry Project by CalPortland Company.

Section 4.2 (Air Quality) of the DEIR acknowledges respirable crystalline silica (RCS) as a toxic air contaminant; however, it determined that RCS would be de minimis. The geological assessment indicates the presence of high silica content rock (such as rhyolite) within the pozzolan to be mined; also, a Safety Data Sheet for Pozzolan from CalPortland Company, issued on April 8, 2020, indicates the pozzolan can contain as much as 50% crystalline silica quartz. Therefore, the District requests additional clarification on how RCS within fugitive dust emissions were determined to be de minimis.

7-A

Additionally, the District has previously received complaints regarding dust from vehicle traffic during preliminary site activity. If the District determines dust emissions during site operations are creating a nuisance, more stringent dust control measures and monitoring than those proposed in the DEIR may be required.

7-B

Thank you for your cooperation in this matter. Should you have any questions, please telephone Samuel Johnson our office at (661) 862-5250.

Sincerely,

Glen E. Stephens, P.E.
Air Pollution Control Officer

GES:SJ:kl

**Response to Comment Letter 7: Eastern Kern Air Pollution Control District–
Glen Stephens (October 4, 2022)**

7-A: The commenter states that certain data indicates high silica content rock may be within the pozzolan to be mined and that pozzolan may contain up to 50% crystalline silica quartz, based on information the applicant provided to the commenter in a Safety Data Sheet (SDS). Accordingly, the commenter requests clarification on how respirable crystalline silica (RCS) within fugitive dust will be de minimis.

As shown in the SDS, the mixture of each element is defined as a potential range. Pozzolan can comprise of up to 50% crystalline silica quartz; however, the percentage of crystalline silica quartz in the material to be recovered on site is likely to be much lower. As indicated in the Draft EIR, respirable crystalline silica is crystalline silicon dioxide with an aerodynamic diameter less than four microns (0.0004 cm). Typical mineral resource recovery methods, however, generally generate particulate matter greater than four microns in diameter, which are too large to be respirable. (Draft EIR p. 4.2-17.) Moreover, the project does not call for on-site materials processing, an activity which is much more likely to generate particulate matter less than four microns in diameter. (See Draft EIR p. 1-2.)

To the limited extent that particulate matter with a diameter of less than four microns is created, the Lead Agency notes that the project is subject to a variety of EKAPCD regulations, mitigation measures, and project design features that have been demonstrated to reduce impacts related to dust, and would reduce any potential release of RCS to less than Mine Safety and Health Administration (MSHA) exposures standards, and a less than significant level. As indicated in the Draft EIR, the Lead Agency is proposing Mitigation Measures 4.2-1 through 4.2-5 which require the applicant to comply with applicable EKAPCD requirements including EKAPCD Rule 402 related to fugitive dust suppression (See also Draft EIR pp. 3-26, 4.2-42 [discussing water use for dust control on mining areas, haul roads, and stockpiles].)

7-B: The commenter states it has previously received dust complaints for prior activities on the project site and that more stringent dust control measures may be required if dust emissions during project operations create nuisance conditions.

The comment is noted for the record.

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Interested Parties

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Randall Cates

From: Ryan Nordness <Ryan.Nordness@sanmanuel-nsn.gov>
Sent: Tuesday, September 27, 2022 2:10 PM
To: Randall Cates
Subject: DEIR comments for the Gem hill Quarry project

CAUTION: This email originated from outside of the organization. Do not click links, open attachments, or provide information unless you recognize the sender and know the content is safe.

Hello Randall,
Thank you for sending over the draft mitigation measures for the EIR and I appreciate your incorporation of preferred tribal language I have only one small change to request. Under MM 4.4-2 I would like to change the language to read:

“During initial excavation, the services of Native American Tribal Monitors
(at the discretion of tribal consulting parties),
working under the supervision of the Lead Archaeologist as identified through consultation with appropriate Native American tribes, shall be retained by the project proponent/operator to monitor, on a full-time basis, ground-disturbing activities associated with project-related construction activities, as follows:

8-A

Ryan Nordness
Cultural Resource Analyst
Ryan.Nordness@sanmanuel-nsn.gov
O:(909) 864-8933 Ext 50-2022
M:(909) 838-4053
26569 Community Center Dr Highland, California 92346



**Response to Comment Letter 8: San Manuel Band of Mission Indians–
Ryan Nordness (September 27, 2022)**

8-A: The commenter is a Cultural Resources Analysis for the San Manuel Band of Mission Indians. The commenter requests a minor change to Mitigation Measure 4.4-2, clarifying that the measure is subject to the discretion of the consulting tribes. The comment is noted for the record. The County has added additional language to Mitigation Measure 4.4-2, as requested by the commenter, so that the first paragraph of MM 4.4-2 in the Draft EIR has been revised, as identified above in Chapter 7.2 of the EIR, as well as below:

Section 4.4.5, Cultural Resources, Page 4.4-26:

MM 4.4-2 During initial excavation, the services of Native American Tribal Monitors (at the discretion of tribal consulting parties), working under the supervision of the Lead Archaeologist as identified through consultation with appropriate Native American tribes, shall be retained by the project proponent/operator to monitor, on a full-time basis, ground-disturbing activities associated with project-related construction activities, as follows:

Comment Letter 9: Zane Revai (August 28, 2022)

Randall Cates

From: Zane Revai <zane@revai.net>
Sent: Sunday, August 28, 2022 5:59 PM
To: Randall Cates
Subject: Gem Hill Quarry

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This project has no benefit for the local community. It's only going to create more traffic and huge dust storms. Why is this project being rammed through this process so quickly??? Who's this benefiting on the Kern County Board???

9-A

Zane Revai
zane@revai.net

--
Zane Revai
zane@revai.net (Everywhere ;])
zrevai@icloud.com (iPhone XS Max - iCloud)
Out In The World
C/O iPhone XS Max!!!

Response to Comment Letter 9: Zane Revai (August 28, 2022)

9-A: Thank you for your comment. Your participation in the public review of this document is appreciated.

As respects to the comment related to traffic, Draft EIR Section 4.14 addresses the Project's potential impacts on transportation. The Lead Agency notes that Urban Crossroads prepared the Gem Hill Quarry Trip Generation Assessment to assess the potential changes in trip generation associated with the proposed Project. (Urban Crossroads 2021). As indicated in Table 4.14-1 of the Draft EIR, the Project would result in an average of 134 daily material haul truck trips, 20 daily employee vehicle trips, and four daily miscellaneous trips. Table 4.14-1 calculates the passenger car equivalents (PCE) of these trips, identifying a total of 426 daily PCE trips. Of these 426 daily PCE trips, the Project is anticipated to generate approximately 42 AM peak-hour PCE trips and approximately 31 PM peak-hour PCE trips. As indicated in the EIR, because the Project is not expected to generate 50 or more vehicle trips during either the AM or PM peak hour, the Project is presumed to have a less than significant impact associated with traffic operations levels of service (LOS). (Draft EIR pp 4.14-11 – 4.14-12.)

As further indicated in the Draft EIR, the Lead Agency has not adopted a methodology or significance threshold for evaluating vehicle miles traveled (VMT) impacts associated with mining projects. (Draft EIR p 4.14-12.) Nonetheless, Draft EIR Table 4.14-2 discloses estimated VMT impacts for informational purposes. Because there is no threshold of significance for VMT for mining projects, the Project's transportation-related impact associated with VMT is less than significant. (Draft EIR p. 4.14-13.)

As respects to the comment related to dust storms, Draft EIR Section 3.4.8 addresses the Project's use of water for dust control. The Project Proposes that a 4,000-gallon water truck would be used to apply water to the site for dust control. Draft EIR Section 4.2 addresses the Project's potential impacts on Air Quality. Draft EIR Section 4.2.2 addresses the health risks associated with particulate matter pollution (PM), of which dust is a main component. (Draft EIR pp 4.2-12 – 4.2-13.)

The Project's anticipated short-term and long-term PM emissions are provided in Draft EIR Tables 4.2-5 and 4.2-7. As indicated in the Draft EIR, the Project's anticipated PM emissions will be less than the applicable thresholds of significance. (Draft EIR Tbls. 4.2-5, 4.2-7.) Although construction, operations, and reclamation emissions are below the thresholds of significance, the Lead Agency nonetheless considers the Project's potential fugitive dust emissions to be potentially significant and, therefore, the Draft EIR proposed Mitigation Measures 4.2-2, 4.2-3, 4.2-4, and 4.2-5 to ensure potential impacts related to fugitive dust are reduced to a less than significant impact.

Lastly, as respects to the comment related to the process:

- The Lead Agency circulated a Notice of Preparation/Initial Study (NOP/IS) to responsible and affected agencies and other interested parties for a 30-day public review period that began on November 4, 2021, and ended on December 6, 2021. The purpose of the NOP/IS is to formally convey that the Kern County Planning and

Natural Resources Department, as the Lead Agency under CEQA, solicited input regarding the scope and proposed content of the EIR. The NOP/IS and all comment letters are provided in Appendix A of the EIR.

- Pursuant to Section 15082(c)(1) of the State CEQA Guidelines, for projects of statewide, regional, or areawide significance, the Lead Agency is required to conduct at least one scoping meeting. The scoping meeting is for jurisdictional agencies and interested persons or groups to provide comments regarding, but not limited to, the range of actions, alternatives, mitigation measures, and environmental effects to be analyzed. Kern County hosted a scoping meeting at 1:30 p.m. on November 18, 2021.
- The Lead Agency notes that the Draft EIR was circulated for public review and comment on August 23, 2022. The 45-day public comment period ends on October 7, 2022, at 5:00 PM. This comment period is consistent with the public review timelines provided by CEQA Guidelines section 15105. (14 Cal. Code Regs., § 15105.)

As respects to the question about who the Project is benefiting the Lead Agency notes that the question does not raise a significant environmental concern and need not be addressed in these response to comments. (14 Cal. Code Regs., 15088(c).)

Comment Letter 10: Jeffrey Douglass (August 27, 2022)

Randall Cates

From: Piper Flyer Notary Services <piperflyer28@charter.net>
Sent: Saturday, August 27, 2022 9:10 AM
To: Randall Cates
Subject: GEM HILL PIT MINE

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To someone that actually cares about Kern County residents,

I thought that I was through with greedy mining companies when I left West Virginia. Apparently, Kern County hasn't learned any lessons from the effects of mining there. This type of mining has consistently contaminated ground water, caused cancer in the surrounding population, Has caused birth defects in infants, destroyed habitat for the animals that live near the mine. And for what? So some corporation can make money at the expense of the local environment. THIS CANNOT BE ALLOWED! Wake up and see what is happening here. Or is the Count in the pockets of the corporations, getting rich on the backs of hard working residents. IT DOESN'T AFFECT BAKERSFIELD SO IT'S OKAY BY US.

Stop this non-sense now.

Jeffrey Douglass
Notary Public
Certified Notary Signing Agent

(661) 972-5907

Piperflyer28@Charter.net

PiperFlyerNotaryServices.com

10-A

10-B



Response to Comment Letter 10: Jeffrey Douglass (August 27, 2022)

10-A: Thank you for your comment. Your participation in the public review of this document is appreciated.

10-B: The commenter notes that the type of mining has consistently contaminated groundwater, caused cancer in the surrounding population, has caused birth defects in infants, and has destroyed the habitat for animals that live near the mine. The comments are noted for the record.

As respects to the comment related to groundwater, the Draft EIR analyzed potential impacts to groundwater and determined that due to Project design features and mitigation measures, the Project will not contaminate groundwater.

Draft EIR Section 4.9 addresses the Project's potential impacts on groundwater and groundwater quality. The Lead Agency notes that SESPE Consulting Inc. prepared the Water Supply Assessment Gem Hill Project (2020) and Technical Memorandum in Support of the Gem Hill Water Supply Assessment (2022) to assess, among other things, the Project's potential impacts on groundwater. As indicated in the Draft EIR, soil disturbance activities could potentially result in soil erosion and subsequent water quality degradation through increased turbidity and sediment transport within the drainage channels on the Project site. (Draft EIR pp. 4.9-17 – 4.9-18.) The Project proposes, however, to comply with the Industrial General Permit, as applicable, as well as compliance with stormwater best management practices (BMPs) and reporting requirements that would prevent the discharge of sediment and potentially pollute surface water. The Draft EIR also states that the Project is subject to all applicable Federal, State, and County water quality regulations. Again, compliance with appropriate BMPs and compliance with applicable regulations will be implemented to reduce potential water quality impacts to a less-than-significant level. (Draft EIR pp. 4.9-17 – 4.9-18.)

Notwithstanding, to ensure that these potential impacts remain less-than-significant for the life of the Project, the Draft EIR proposed Mitigation Measures 4.9-1 and 4.9-2. (Draft EIR pp. 4.9-17 – 4.9-18.)

As respects to the comment related to cancer in the surrounding population and birth defects in infants, the Draft EIR analyzed potential human health risks and determined that the Project's potential carcinogenic risk and potential non-carcinogenic health risk was well below the applicable thresholds of significance

Draft EIR Section 4.2 assesses the Project's potential impacts on, among other things, human health due to emissions affecting air quality during implementation of the Project. The Lead Agency notes that Lilburn Corporation prepared Air Quality and Greenhouse Gas Emission Assessment for Gem Hill Quarry, Kern County, California (2022a) to assess the Project's potential air quality impacts, including impacts on human health. As indicated in Draft EIR Section 4.2.4, the Project's criteria pollutant emissions (both short-term and long-term) are under the applicable thresholds of significance (i.e., the level at which the East Kern Air Pollution Control District and Lead Agency have determined that emissions will have an impact on human health and/or the environment). (Draft EIR pp. 4.2-41 – 4.2-44.) In addition, as noted in the Draft EIR, a Health Risk Assessment Analysis (HRA) was performed by

Ganddini Group, Inc. (2022) to evaluate the effects of toxic air contaminants (TACs), including diesel particulate matter (DPM) from vehicles and various substances found in fugitive dust emissions. The HRA specifically focused on sensitive receptors: the facilities that house or attract children, the elderly, people with illnesses, or others who are especially sensitive to the effects of air pollutants. As indicated in Draft EIR Tables 4.2-8 and 4.2-9, the Project's potential carcinogenic risk and potential non-carcinogenic health risk was well below the applicable thresholds of significance. (Draft EIR pp. 4.2-49 – 4.2-57.)

Although all emissions and both carcinogenic and non-carcinogenic health risks are predicted to be below the applicable thresholds of significance, the Draft EIR nonetheless proposed Mitigation Measures 4.2-1, 4.2-2, 4.2-3, 4.2-4, 4.2-5, 4.2-6, 4.2-7, 4.2-8, 4.2-9, and 4.2-10 to ensure that human health risks, including risk of cancer in the general population and/or birth defects in infants, remains less-than-significant.

As respects to the comment concerning the potential destruction of habitat, Draft EIR Section 4.3 assesses the Project's potential biological impacts. The Lead Agency notes that ELMT Consulting prepared the Gem Hill Project Habitat Assessment and Desert Tortoise Presence/Absence Survey Report (2022a) to evaluate the condition of habitat and assess the probability of occurrence of special-status plant and wildlife species on the Project site. As indicated in Draft EIR Section 4.3.4, the Project Site is not occupied by any special-status species and, therefore, the Project will not have any impact, either directly or through habitat modification, on any special-status species. The Project will, however, occur incrementally over the proposed 30-year life of the Project. Because of their migratory nature, certain species have a low potential to migrate onto the Project site prior to commencement of Project activities. Accordingly, the Draft EIR proposed Mitigation measure 4.3-1, 4.3-2, 4.3-3, 4.3-4, 4.3-5, 4.3-6, and 4.3-7 to ensure that project impacts remain less-than-significant throughout the life of the Project.

Also as indicated in Draft EIR Section 4.3.4, there are no sensitive natural communities identified in regional plans, policies, regulations, or by CDFW or USFWS located on the Project Site. No fish or hydrogeomorphic features with frequent sources of water that would provide suitable habitat for fish were observed, and it was determined that fish and amphibians are absent from the Project site. The Draft EIR also concluded that the Project site does not contain riparian habitat. (Draft EIR p. 4.3-28.) Accordingly, the Draft EIR concluded that any impact on riparian habitat or other sensitive natural communities would be less-than-significant. (Draft EIR p. 4.3-30.)

Comment Letter 11: Ann Kahn (September 15, 2022)

Randall Cates

From: Ann Kahn <ann10@charter.net>
Sent: Thursday, September 15, 2022 8:25 AM
To: Randall Cates
Subject: Jim Hill quarry project. I owned 2/20 acre plots at this location and I am totally against them coming in there and mining. thank you Ann Kahn,1-865-951-8448

11-A

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Sent from my iPhone

Response to Comment Letter 11: Ann Kahn (September 15, 2022)

11-A: Thank you for your comment. Your participation in the public review of this document and the scoping process is appreciated. The commenter states that she owns property adjacent to the Project site and is against the Project. The comment is noted for the record.



The Lead Agency notes that the comment does not raise a significant environmental concern and need not be addressed in these responses to comments. (14 Cal. Code Regs., 15088(c).)

Comment Letter 12: Erin Hambrick (October 7, 2022)

Randall Cates

From: Erin Hambrick <aeronire@gmail.com>
Sent: Friday, October 7, 2022 1:50 PM
To: Randall Cates; Terrance Smalls; Department, Planning
Cc: phillip moores
Subject: Gem Hill DEIR Comments

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 [_Gem Hill DEIR Comments 20221006.pdf](#) 

Mr Cates,

The Gem Hill DEIR falls short of addressing all of our concerns as established residential property owners located directly across the street from this proposed project.

The lack of transparency and accountability demonstrated by Calportland and the Kern County Planning Department since Calportland started bulldozing a mile of western Joshua trees 2 years ago is nefarious and negligent. This DEIR follows in the same vein by failing to address our concerns for our environment and our concerns for health hazards, air quality, water quality and quantity, noise, transportation, and environmental justice as adjacent established residents. This pit mine as proposed will absolutely ruin our quality of life by compromising our health and safety as well as the productivity and profitability of our home. Please note that many of these concerns were already submitted to the Kern County Planning Department in response to the NOP and the following is in addition and in direct response to the DEIR.

We also emphasize that we have not been approached by any agency to access and monitor our property to further the proposer's project. Some of the information gathered and published in the DEIR from your office was obtained by trespassing on our property without our knowledge and without our consent. We respectfully request to be notified for any study that involves trespassing on or monitoring of our private property prior to Kern County Planning publishing the data.

Please see the attached and following discussion of requests for additional information and mitigation measures for the project as some of the literature in nearly every category provided by the County Planning Department does not accurately reflect the conditions of the site nor compliance with stated regulations.

Please confirm your receipt of the attached document.

Sincerely,

Erin Hambrick & Phil Moores
7288 Mojave Tropico Rd
Mojave CA 93501

3 Project Description

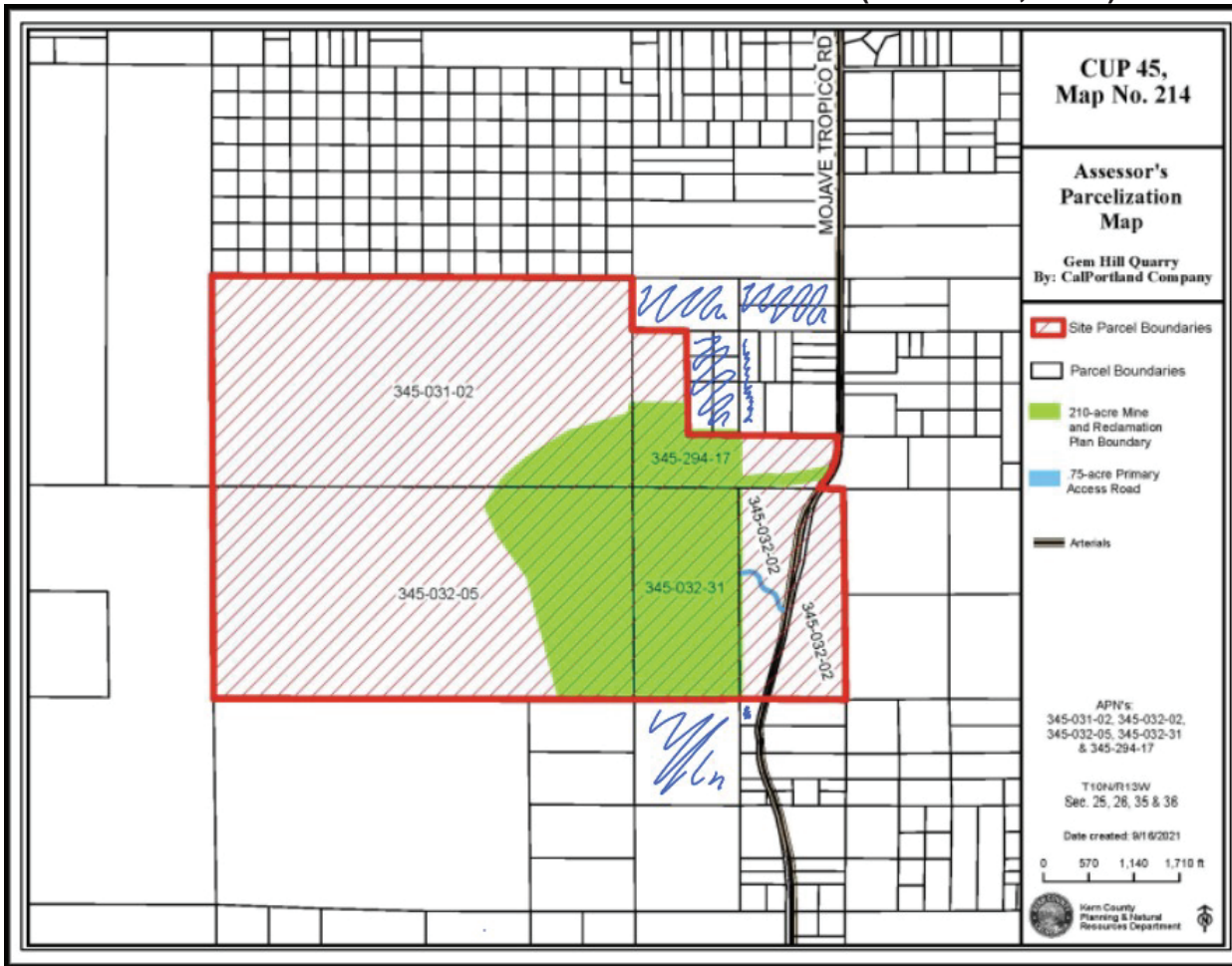
What is the actual scope of this project? It does not mention the extensive bulldozing along the north facing side of the ridge and valley floor including the recent destruction of several Joshua trees already conducted north of the proposed pit site. The cut roads are even closer to adjacent residences than the pit. This query was presented to the Kern County Planning Department multiple times after receiving the NOP. The Planning Department responded that it would be addressed in the DEIR. The Planning Department has not included it in the DEIR. The new roads and widened trails north of Gem Hill create significant dust for adjacent residents during high wind conditions and with any vehicle traffic. Request to address the plan specifically for further development and restoration of this land. Request to address that multiple western Joshua trees were destroyed. Request to address that multiple roads have been cut and scraped in the desert that access the site which are not part of the proposed project. Request to address fugitive dust mitigation and restoration of those roads.



Outdated aerial image provided by Mr Cates on 01-05-22 showing parcel numbers with red dots indicating Calportland acquisitions and returned to the county with blue X's indicating recent bulldozing. Reference Vol 2 Appendix A page 287 request to Kern County Planning department for clarification on the discrepancy between project scope depicted in NOP and project as visible from adjacent land and aerially.

12-C

Comment Letter 12: Erin Hambrick (October 7, 2022)



12-C
Cont.

Parcel image provided by the county in Vol 1 page 39 marked up to show additional disturbed parcels with blue squiggles indicating recent bulldozing. Reference Vol 2 Appendix A page 287 request to Kern County Planning department for clarification on the discrepancy between project scope depicted in NOP and project as visible from adjacent land and aerially. Why are parcels 345-294-01 and 345-294-03 not included in the DEIR?

Comment Letter 12: Erin Hambrick (October 7, 2022)



More recent aerial image of Gem Hill north accessed from Bing 10-06-22. Two new roads bulldozed by Calportland highlighted in blue. Five adjacent resident homes highlighted in green.

12-C
Cont.



Recent aerial image of Gem Hill photographed on 11-26-21 directly east of Gem Hill looking west. Extensive bulldozing operations to expand existing trails and create new roads by Calportland highlighted in blue.

4.1 Aesthetics

Vol 1 DEIR page 172 Impact 4.1-3 acknowledges that the project would have a significant impact if viewers are subjected to new point-sources or collective illumination from the project. However, there is no lighting plan provided for public review and comment. The DEIR allows for periodic nighttime lighting

12-D

Comment Letter 12: Erin Hambrick (October 7, 2022)

with no lighting plan. It allows an unspecified number of portable generators to provide an unspecified amount of lighting not subject to schedule. Page 173 claims the level of significance with mitigation measures would be less than significant. Until there is a plan that describes operating conditions and limitations that would not subject viewers to new point-sources or collective illumination from the project, this impact assessment is absolutely false and should be reclassified as significant even with mitigation measures.

12-D
Cont.

We request the lighting plan be published with the EIR. Consider requiring all lights be extinguished at the end of daily operations no later than civil twilight to not further disturb wildlife and residents. Vol 1 page 172 Impact 4.1-3 allows for periodic nighttime lighting while admitting no lighting plan has been provided. It allows an unspecified number of portable generators to provide lighting not subject to schedule. Consider solar power to reduce noise and GHG.

Vol 1 Project Visibility

Page 150 What is the visibility of the landing pads and the overburden stock piles? Views of the site address only the new quarry feature. Prior to Calportland’s initiation of extraction operations, there were no landing pads or stock piles.

12-E

Page 157 Table 4.1-2 Visual Quality Rating Analysis describes the existing conditions of water. Water 1 Point is inaccurate as photographs have been submitted of visible water flows and retainment during wet years. Scarcity 3 Points is inaccurate in describing hilled topographic areas available elsewhere in the region. Where? There are no hills of comparable dimensions that aren’t visibly scarred by extensive mining efforts.

12-F

Page 158 1,029 vehicle average per day of potential viewers. There is no traffic study. Request a traffic study to conclude significance of impact on potential viewers..

12-G

Page 163 Consider increasing maintenance, trash removal, and pest management. Mitigation measures for maintenance, trash abatement, and pest management are inadequate. Debris clearing and trash removal need to occur more often. The 2 week response time allowance to complaints is inadequate. High winds will cause debris to travel. Increased daily traffic will cause increased daily debris accumulation which increases fire and pest exposure for adjacent residents. Calportland has already demonstrated that they do not perform debris management, see multiple sources submissions of photographs of site debris, including Vol 3 page 75 Appendix E.2 for numerous photographs of modern refuse noted during the archeological survey and Vol 2 Appendix A.3 page 266 for numerous photos of modern refuse along the access road through the California Protected Area parcel 345-032-02.

12-H

Page 159 Impact 4.1-2 “The project would substantially degrade the existing visual character or quality of public views of the site and its surroundings” is found on Page 163 as “significant and unavoidable”. Why is the county considering allowing a project to continue to degrade the character and quality of its surrounding residential neighbors?

12-I

Page 164 the key observation point photographs label “Existing Conditions (Mining Has Not Commenced)” photographs is absolutely false as Calportland began preparing and extracting from the site as documented in the NOP and beyond as documented in our comments to the NOP in Vol 2 Appendix A.3 page 211. Photos are after mining began and from viewpoints of reduced project visibility. Request that photos be adjusted to consider Gem Hill site prior to the project preparation and to retake current site photos from appropriate vantage points.

12-J

4.2 Air Quality

Calportland has an established history of noncompliance with dust mitigation as was presented in the comments to the NOP see DEIR Vol 2 page 280 Eastern Kern Air Pollution Control District Complaints Log. What evidence is there to believe Calportland will properly mitigate dust in the future?

12-K

Comment Letter 12: Erin Hambrick (October 7, 2022)



East of Gem Hill looking west, blowing dust from Calportland bulldozing operations 12-04-2020.

↑
12-K
Cont.

Consider requiring all haul truck beds to be covered. This would reduce the dust and debris previously observed by Calportland haul trucks.

12-L

Discussion of multiple carcinogens that are expected to be released; Will there be Prop 65, or appropriate signage posted at the mining property boundary? Will downwind neighbors (Backus, Mojave Tropic, Ancient Valley) be warned/alerted of these dangerous elements that will be released?

12-M

Consider setting up additional monitoring stations with particulate criteria and visibility measurement. The monitoring station cited in Vol 1 page 182 in Table 4.2-2 923 Poole Street is 14 miles away from the proposed pit site and not located prevalently downwind as depicted in the wind graph in Vol 2 Appendix C.2 Health Risk Assessment page 531. CARB Table 4.2-1 lists visibility standards. Calportland should pay for the installation and monitoring efforts of these additional stations and equipment for ozone, suspended particulate matter, and wind. Page 187 “Non-health-related effects [of particulate matter] include reduced visibility and soiling of buildings” which will have an adverse effect on residential and commercial solar projects. The emissions are a significant increase to the 0 emissions of undeveloped land. The emission predictions do not appreciably decrease between construction and long term operations, making this a 30 year construction project. The predictions do not discuss the significant amount of debris tracked into and then spread along the road. Consider compensation to adjacent residences and commercial solar production for reduced efficiency and damage caused by this operation releasing particulate matter.

12-N

Comment Letter 12: Erin Hambrick (October 7, 2022)

Request analysis for CO hotspot page 230. Diesel generators, construction equipment, haul trucks, and vehicles will be idling within 1,000 feet of residential properties which satisfies condition (c) “sensitive receptors such as residences, schools, hospitals, etc., are located in the vicinity of the affected intersection or signalization” of the Kern County Planning and Natural Resources Department’s, Guidelines for Preparing an Air Quality Assessment for Use in Environmental Impact Reports (2006) states that CO hotspots must be analyzed.

12-O

Request debris removal/truck cleanoff prior to trucks entering Mojave Tropico Road from unpaved road. Track out should not be allowed at all onto the paved road as it is damaging to vehicles. The grade of and curves around Gem Hill pose risks to both southbound and northbound drivers to avoid dust and debris in the road. CalPortland’s initial site preparation resulted in softball sized and larger rocks being tracked into Mojave Tropico rd on several occasions.

12-P

DEIR Vol 1 page 57 Impact 4.2-2 “The project would result in a considerable net increase of a criteria pollutant for which the project region is nonattainment under an applicable Federal or State ambient air quality standard” and page 62 Impact 4.2-4 “The project would contribute to cumulative air quality impacts” found as “less than significant” with mitigation measures is false.

12-Q

Nothing addresses the adjacent area exposure to Valley Fever. MM 4.2-8 on page 61 is to provide employees at the site with a brochure about Valley Fever. A brochure for employees is not mitigation of a disease for the adjacent communities. The California Department of Public Health identifies Valley Fever as endemic in Kern County with mining and quarry occupations in the highest risk. The mitigation measures do not fully incorporate all of the CDPH recommendations for preventing exposure, such as seeding and using soil binders as soon as possible after grading, nor do they incorporate all of the CDPH recommendations for preventing the transport of spores, such as cleaning tools, equipment, vehicles, and workers with water to remove soil before leaving the site. Consider requiring all of the CDPH recommendations to prevent the exposure and transport of Valley Fever. Consider monitoring, reporting, and notification for any increase in cases of Valley Fever among Calportland workers and residents adjacent to the site and its transport paths. Consider compensation for any affected workers and residents.

12-R

<https://www.cdph.ca.gov/Programs/CCDPHP/DEODC/OHB/HESIS/CDPH%20Document%20Library/CocciFact.pdf>

Request clarification if there exists an Impact 4.2-3. Was this number intentionally skipped?

12-S

Request analysis of sensitive receptors representative of the Kern County population to carcinogenic health risk impact. Table 4.2-8 Page 228 describes an unborn child through age 30 at home some of the time as an ultra-conservative assumption. Meanwhile, Page 188 describes “individuals with existing cardiac disease can be in a potentially life threatening situation when exposed to high levels of fine air pollution”. Kern County ranks 4th in the state for highest cardiac deaths and cancers and Kern County is 78% obese. Gem Hill and the adjacent communities already rank in the 95-100 percentile for ozone pollution. As has already been submitted in comments to the Notice of Proposal for this project, many adjacent residents work from home and therefore would be in direct continuous exposure to all of the toxins of mining pollution. The unborn child health analysis appears negligently dismissive of the facts that characterize the disadvantaged communities surrounding Gem Hill. Consider a representative Gem Hill area receptor, obese with high risk of cardiac disease and cancer and always at home in direct exposure, in addition to the unborn child health analysis to properly account for the socioeconomic environmental justice indicators of this community and to determine if the unborn child analysis is conservative as claimed.

12-T

<https://kernpublichealth.com/knowyournumbers/>

Consider the cumulative impact of particulate, ozone, and fungus pollution exposure for an already high risk population. Kern County age-adjusted mortality rate due to heart disease, all cancers, and diabetes as well as

12-U

Comment Letter 12: Erin Hambrick (October 7, 2022)

ER rate due to pediatric asthma are some of the highest in California and well above the US average and US targets for healthy people. Kern County is the source of over half the cases of Valley Fever in California. This project isn't just exposing infants, it's aggravating an already high risk population to worsening air quality and disease issues. The acquisition of this previously open space land and subsequent pollution of the surrounding lands limits the safe areas for local outdoor recreation and activities, again aggravating an already high risk population to worsening obesity and disease issues by forcing an indoor sedentary lifestyle to avoid exposure. <https://kernpublichealth.com/wp-content/uploads/2019/12/KCPHSD-Community-Health-Assessment-and-Improvement-Plan-2018.2019.pdf>

↑
12-U
Cont.

4.3 Biological Resources

Request further habitat assessment. The ELMT report presented by Calportland is incomplete. Request additional study be conducted per CDFW guidelines, include March-April period, and include undisturbed land surrounding the project area for wildlife and plant species inventories as so much of the land within the project area has already been significantly disturbed by initial grading and site preparation, beyond what is naturally reparable.

↑
12-V

Consider requiring increased reclamation efforts. The survey map indicates a significant portion of lands recently acquired by Calportland. Those lands should be dedicated to demonstrating reclamation techniques and preservation from the proposal to the conclusion of this project.

↑
12-W

Request agreement from CFDW for CDFW jurisdictional streambed as the project will result in adverse impacts to existing wildlife, contrary to Vol 2 page 1015. DEIR Vol 1 page 540 states "long term loss of habitat that could provide for special-status species" and "significant impacts to migratory birds could occur even after mitigation." Therefore, admitted impacts to wildlife should require CFDW jurisdiction and agreement. See the following photographs of streams and standing water at Gem Hill prior to Calportland's acquisition.

↑
12-X

Comment Letter 12: Erin Hambrick (October 7, 2022)



South of Gem Hill looking south 2019.

Comment Letter 12: Erin Hambrick (October 7, 2022)



South of Gem Hill looking east. A meadow with lush wildflowers and flowing stream 2019.

Vol 2 Appendix D.1 Habitat Assessment and Desert Tortoise Survey page 933 The environmental plant and wildlife study was conducted after mining operations began, during seasonal drought conditions, and of insufficient duration and quality to conclude project impact significance.

12-Y

The 5 hour field investigation duration is questionable for 100% coverage of 82 acres. The archaeologist in Vol 3 page 68 classifies 53 acres per person per day as a “reconnaissance level of surveying, not an intensive study”, so this biologist survey barely counts as having a quick look around. Consider conducting an environmental survey with appropriate expertise of an appropriate duration in an appropriate season which considers adjacent undisturbed habitats in place of the areas already disturbed by Calportland’s operations.

12-Z

Page 948 claims that the “Surveys were conducted at the time of year when plant species are both evident and identifiable.” This is not accurate as the survey was conducted on September 26. The nearby California City holds a yearly post-apocalyptic Mad Max themed festival called Wasteland Weekend concurrent with the timeframe of this survey. It is just after the hottest time of the year where most of the plant species have been eaten, blown, or burned away and even scavenging rodents are more scarce until the first rain of winter. See photographs submitted in Appendix A.2 Scoping Meeting Summary pages 124-169 from early spring superblooms, when local plants are evident and abundant, for comparison.

12-AA

DEIR Vol 2 Calportland Gem Hill Reclamation Plan page 328 states “That the proposed project supports moderate habitat for the alkali mariposa-lily, recurved larkspur...” while page 329 claims “none of these plant species were observed”. See below for photographs submitted in Appendix A.2 Scoping Meeting Summary of

12-AB

Comment Letter 12: Erin Hambrick (October 7, 2022)

the alkali mariposa-lily and recurved larkspur at Gem Hill; therefore, the conclusion that “special-status plant species known to occur in the area are absent from the project site” is false.

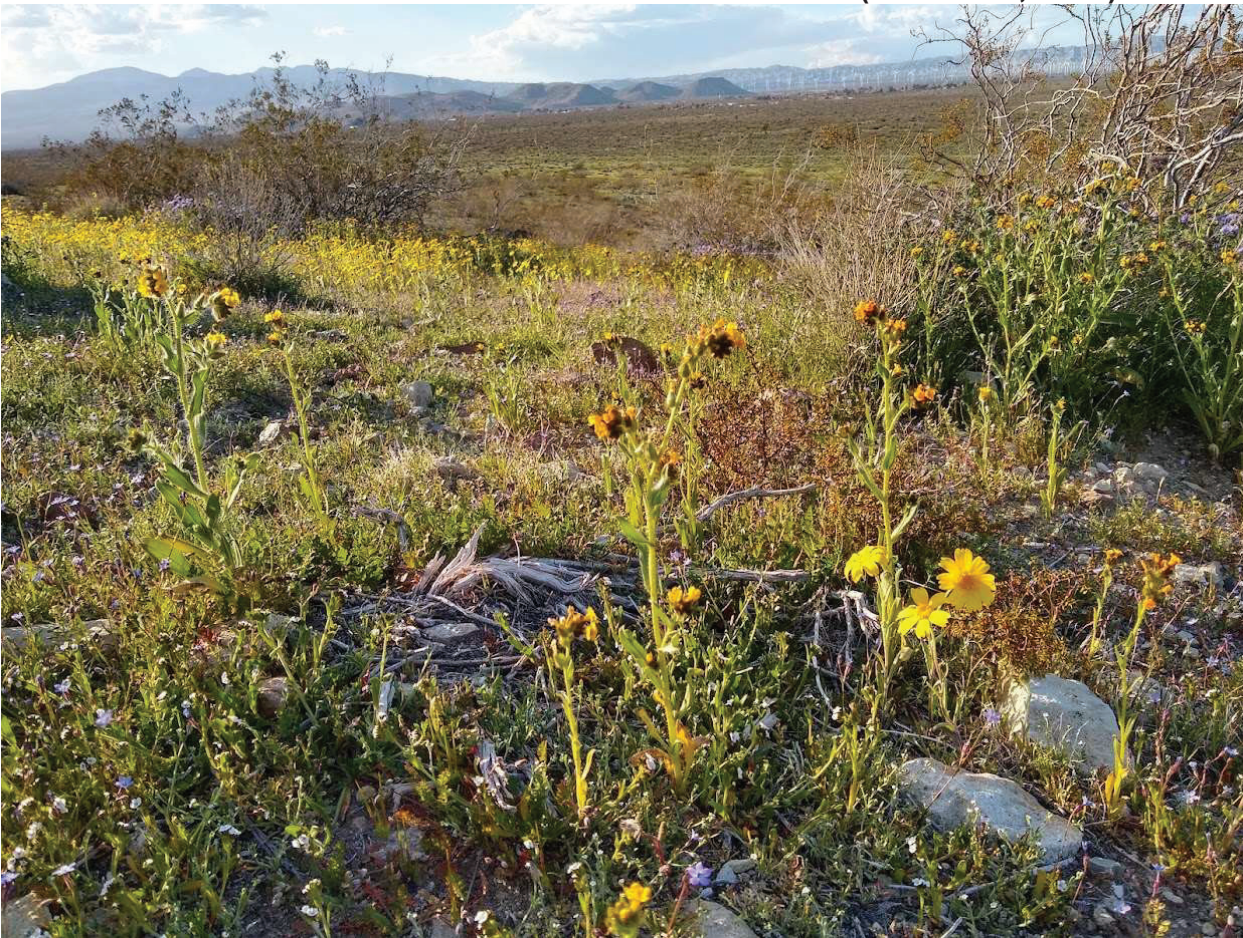


Northeast of Gem Hill alkali mariposa-lily with desert vegetation 5-15-2020.



12-AB
Cont.

Comment Letter 12: Erin Hambrick (October 7, 2022)



Gem Hill looking north recurved larkspur with desert vegetation 2019.

12-AB
Cont.

How could a biologist not catalog more creatures? We can't go outside for more than 1 minute less than 1,000 feet from the proposed pit without tripping over squirrels, Mohave ground squirrels, rats, mice, kangaroo mice, rabbits, jack rabbits, quail, lizards, snakes, scorpions, ravens, hawks, pigeons, hummingbirds, road runners, turkey vultures, songbirds, owls, bats, coyotes, bobcats, moths, butterflies, praying mantis, beetles, tarantulas, etc. Vol 3 Appendix E.3 Cultural Resources Investigation page 124 notes multiple animal lairs found while the biologist only found a handful of creatures as described in Appendix D.1 page 954 and no nests or lairs.

12-AC

There used to be (are still?) western Joshua trees within the project area, see photographs submitted in DEIR Vol 2 Appendix A.2 documenting Calportland's extensive plowing that cleared away and destroyed vegetation beyond the permitted landing pads of the project. The Vol 1 DEIR Impact 4.3-5 page 265 assertion that no western Joshua tree or suitable habitat was observed on site is absolutely false.

12-AD

Comment Letter 12: Erin Hambrick (October 7, 2022)



Northeast of Gem Hill looking east where Joshua trees and other desert vegetation were bulldozed and tossed aside, covered up, or mulched into soft desert sand by Calportland on 08-13-2020.

12-AD
Cont.



↑
12-AD
Cont.

North of Gem Hill looking west 08-13-2020 at bulldozer tracks crisscrossing everywhere with Joshua tree and creosote bush debris adjacent to north-south road connecting Gem Hill to the new extremely wide sand road.

Discussion of the Gem Hill area supporting federal and state threatened species and appropriate survey protocols required was submitted to Kern County Planning by the Center for Biological Diversity see Vol 2 Appendix A page 118. The DEIR Vol 2 Appendix D.1 Habitat Assessment and Desert Tortoise Survey does not satisfy appropriate protocols. As there are western Joshua trees at Gem Hill and the California Fish and Game Commission advanced the western Joshua tree to endangered species candidacy, Calportland's intentions for further destruction must be fully evaluated and disclosed to the public. As there are Mohave ground squirrels at Gem Hill and suitable habitat for desert tortoise and burrowing owl, all threatened species, specific survey requirements are recommended by the California Department of Fish and Wildlife. Calportland has already significantly disturbed the Gem Hill site; therefore, any survey undertaken now will under-represent the actual number of threatened species that are present. Recommend including adjacent undisturbed areas to characterize disturbed areas and factoring population loss with habitat loss.

12-AE

Vol 3 Appendix L Land Survey Map page 959 survey map note 1 found 3 mine shaft openings. Vol 1 DEIR page 129 says no mine shafts or openings and requires these shafts be identified, evaluated, and addressed with County consultation. Request mine shafts be evaluated and addressed.

12-AF

4.4 Cultural Resources

We have found obvious artifacts on our property directly adjacent to Calportland's site and assume the striking rock formations would have been as interesting to Native Americans then as it is to the many residents that live in and the recreationists who visit the area now.

12-AG

Comment Letter 12: Erin Hambrick (October 7, 2022)

Request full not redacted Vol 3 Cultural Resources Investigation reports be released and published with EIR. If the cultural resources identified in the investigation are not significant, then why are the reports redacted? Release the full reports or reclassify the Impact 4.4-2 page 293 “The project would cause a substantial adverse change in the significance of an archaeological resource” as significant. 12-AH

Vol 3 Appendix E.2 Cultural Resources Investigation Page 65 describes the redefined project boundary to 30 acres and thus “the redefined project area boundaries negated the need to impact most of the resources identified”. This is archaeological gerrymandering. The project has already impacted way more than 30 acres. With additional access roads already scraped beyond the scope described in this report, Calportland’s intent to destroy archeological artifacts is established. 12-AI

Vol 3 Appendix E.2 Cultural Resources Investigation Page 80 Recommends a full-time archaeological monitoring program. Page 68 Recommends the County to consider consultation with the larger listing [of Native American representatives] as only 1 correspondence is included with the materials. Page 71 “As a result of the previous research completed within one mile of the Cal-Portland property northwest of Rosamond, McKenna et al. concurs with the overall conclusion that the general area is highly sensitive for the presence of prehistoric archaeological resources and moderately sensitive for the presence of historic archaeological resources.” Page 123 a subsequent survey failed to relocate a previously noted artifact. This is another example of Calportland’s lack of effort to secure the site. Request all previously discovered and any new discoveries of artifacts be delivered to the nearest accepting museum and a display to describe the cultural findings be funded by Calportland. 12-AJ

4.5 Energy

Vol 1 DEIR Impact 4.5-2 page 309 “Without utilizing electricity from the power grid, the project would not have to mitigate for GHG-emitting energy usage”. Does this loophole actually exist? Kern County Planning and Calportland should be ashamed for blatantly allowing this and calling this a green project. This project scopes 24 hours per day 7 days per week diesel generators and 12 hours per day 6 days per week diesel vehicles. Consider requirements for solar power for the onsite trailer, well, lighting, etc and not allowing diesel generators. Additionally to conserve energy and comply with the Dark Sky Ordinance, consider limiting and prohibiting night lighting. 12-AK

The dust and airborne particles from this project will negatively impact adjacent residential and commercial solar energy production. This project will actually decrease the green efforts already occurring in the adjacent area. 12-AL

4.6 Geology and Soils

4.7 Greenhouse Gas Emissions

Consider re-evaluation of carbon offsets claimed by this project. This project is an inappropriate appropriation of carbon credits and GHG emission reduction claims. 12-AM

The undisturbed desert is a stable carbon sink “because carbon is stored primarily underground, in roots, in caliche, it stays put for the most part, barring human disturbance. Caliche layers can be thousands of years old. It takes a very long time to form the caliche, but just minutes of a bulldozer’s work to release ancient 12-AN

Comment Letter 12: Erin Hambrick (October 7, 2022)

carbon stores back into the atmosphere.” Continuing bulldozing and blasting operations in Gem Hill will release more carbon. <https://desertreport.org/carbon-sequestration-in-our-desert-lands/>

↑ 12-AN
↓ Cont.

Calportland should only claim carbon credit for mining pozzolan if they are also accepting responsibility for burning coal in California rather than just scooping up the flyash byproduct. Vol 1 Greenhouse Gas Emissions DEIR page 369 takes credit for reducing GHG emissions even though the entire project site operates solely on GHG vehicles and generators. This is a total contradiction to claim a project that operates solely on GHG vehicles and generators is reducing GHG. As has been pointed out in multiple studies, the cement industry is a top source of GHG emissions and substituting clinker may buy Calportland carbon credit but doesn't actually reduce GHG at all.

12-AO

Supporting this point, the Global Cement and Concrete Association describes clinker substitutes as “a range of materials – often industrial byproducts that would otherwise be waste – [that] can be added to cement to reduce its carbon footprint and support the circular economy”. Mining pozzolan natural material exclusively using GHG emitting technology does not support a circular economy and reduce waste and so contradicts the innovation path presented by the Global Cement and Concrete Association. <https://gccassociation.org/cement-and-concrete-innovation/clinker-substitutes/>

The Carbon XPRIZE was awarded in 2021 to 2 cement companies that partnered with a coal powered plant and a natural gas powered plant to obtain waste and utilize the associated captured CO2 emissions in their production of cement. “The winning teams [CarbonCure and CarbonBuilt] converted the most CO2 into products with the highest value, while minimizing their overall CO2 footprint, land use, water use, and energy use.” Rather than focusing on reducing the distance between a new mine and a cement factory as has been stated in the DEIR, the XPRIZE competition project evaluation found significantly higher benefits in colocating power plants with cement factories and incorporating carbon capture in the cement process. <https://www.xprize.org/prizes/carbon/articles/xprize-announces-the-two-winners-of-20m-nrg-cosia-carbon-xprize-with-each-team-creating-valuable-products-out-of-co2-emissions>

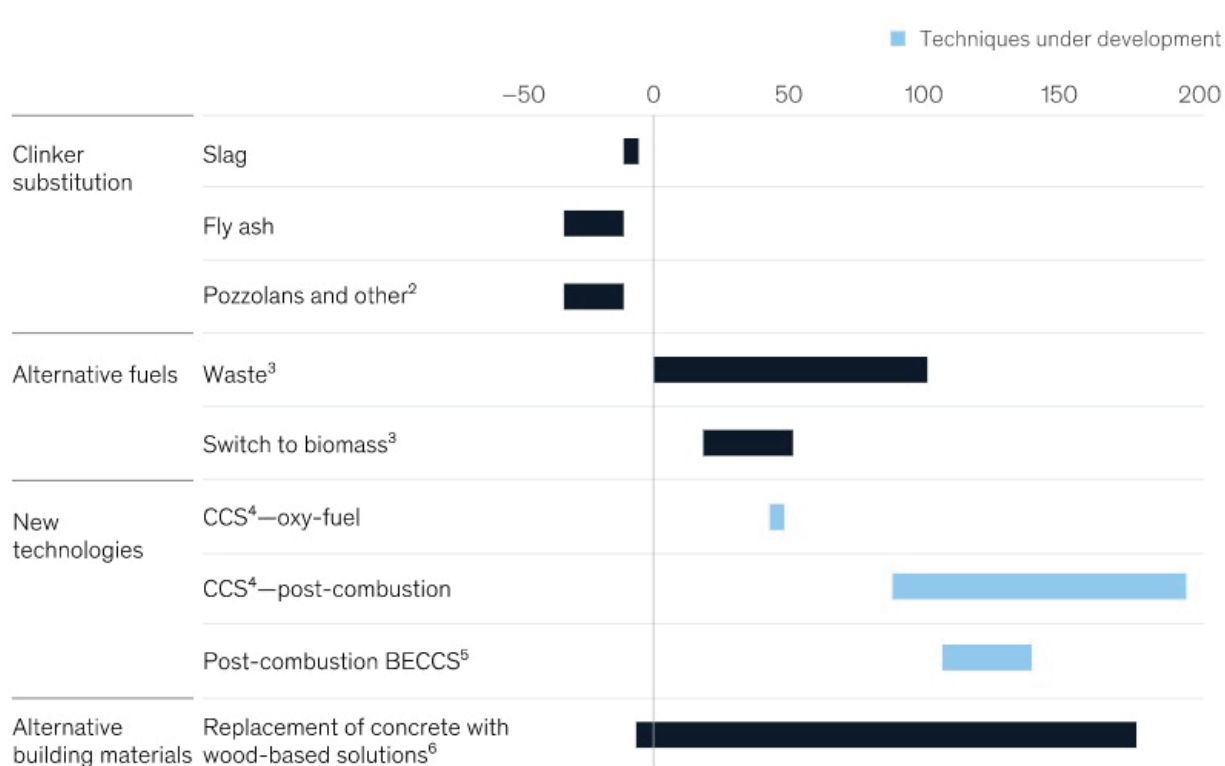
12-AP

“The cement industry is a top source of CO2 emissions... Our abatement cost curve (Exhibit 4) estimates the costs of several large-scale investments to reduce one ton of CO2 (based on assumed future costs, CO2 prices, and abatement volumes). A negative abatement cost—such as for clinker substitutes—implies a benefit to the producer rather than a reduction in cost.” from McKinsey May 14, 2020 article “Laying the foundation for zero-carbon cement” <https://www.mckinsey.com/industries/chemicals/our-insights/laying-the-foundation-for-zero-carbon-cement>

↓

Decarbonizing cement requires large-scale investments in technologies, bringing down both fuel and process emissions.

Range of abatement cost¹ of various cement decarbonization levers, \$/tCO₂



¹ Globally assumed cost, can vary locally.
² Limestone, kaoline, and other.
³ Depending on availability, quality of material, and cost to dispose.
⁴ Carbon capture and storage.
⁵ Bioenergy with carbon capture and storage.
⁶ Includes abatement coming from displacement from steel.

Pozzolan as a clinker substitute has a negative abatement cost. Mining pozzolan to substitute as clinker doesn't actually produce a net reduction in carbon emissions.

12-AP
Cont.

DEIR Vol 1 Table 4.7-3 Daily and Annual Project GHG Emissions page 363 does not include diesel generators to power the onsite trailer, well, HVAC, and lighting. Additional considerations of equipment required in constructing the site, such as for grading the additional access roads, installing the onsite infrastructure and fencing, and idling vehicles does not appear accounted for in this estimate. Construction significance is measured against a yearly threshold. Consider adapting the significance threshold to a more appropriate timeframe that agrees with the proposed construction duration. Consider that disturbing the desert will release ancient carbon stores back into the atmosphere. Claiming Calportland's carbon footprint is reduced with a table showing over a ton of metric tons of new CO₂ produced by a fraction of the expected operations in a single year is a contradiction.

12-AQ

4.8 Hazards and Hazardous Materials

Daily blasting operations; Will Calportland be responsible for the property damage incurred to residential property & structures over the duration of this project. What does the claims process look like to report and resolve damage?

12-AR

Comment Letter 12: Erin Hambrick (October 7, 2022)

What is the cumulative hazard of blasting, vibration, and land subsidence on the site and neighboring residential properties?

12-AS

Vol 1 Project Scope Page 126 “Drilling would typically be conducted as part of normal mining operations approximately 105 days/year, up to 5 days a week, 10 hours/day with depths of 28 feet. Blasting is planned approximately once per week. Typical blasting activities would take place between the hours of 10:00 a.m. and 4:00 p.m. on weekdays (Monday through Friday); however, hours may shift due to safety driven operational constraints.”

12-AT

Will blasting explosives be stored onsite? How will they be secured? The area is very popular for recreational shooting and the site is often accessed by recreational vehicles. A stray vehicle or bullet could lead to an explosion that could injure employees, recreationists, and adjacent residents and cause significant property damage. DEIR Vol 2 Calportland Gem Hill Quarry Reclamation Plan states that no residents exist within 1,000 feet to blasting operations but this is absolutely false.

From neighbor Carol Letus-Dumin on 8/30/2022 “When Calportland ran their test project, they did damage to our roads, and my husband was nearly run off the road several times when they had trucks running up and down Backus and Mojave Tropicco.”

12-AU

The frequent heavy trucking to support the quarry and mining operations has significantly degraded Mojave Tropicco and adjacent roads. The outboard portion of the road on both sides is completely crumbled in most areas. The heavy trucks often drive across the yellow centerline impinging on the other lane and endangering opposite way traffic. Large potholes combined with road and rock debris require extreme vigilance, especially at night as the road is not lighted. I personally experienced the consequences of hitting one of these potholes with debris on 11/4/2021. I was driving below the posted speed limit and had a total tire failure. This concern was submitted to the NOP see Vol 2 Appendix A.3 Notice of Preparation/Initial Study Comments page 278.

4.9 Hydrology and Water Quality

The water assessment presented scopes for 10 and 20 years while the project is proposed for 30 years. The assessment excludes information about adjacent residential wells. The information for the wells is readily available online for a more thorough assessment.

12-AV

The aquifers are connected or they're not? Vol 3 Appendix I.2 Water Supply Assessment page 805 by Sespe sounds contradictory. It says “this aquifer is spatially constrained” but continues saying “replenishment of the local basalt aquifer is believed to occur by infiltration and inflow from adjacent areas”. That implies that the groundwater aquifers are connected. If the aquifer is replenished by adjacent areas, then the new well will take water supply away from adjacent resident wells. The logical conclusion from these statements is that the aquifers are connected and therefore Calportland’s intention to extensively deplete this aquifer is of significant impact to neighboring residential wells.

12-AW

What is the impact to the water table and how does that compare to adjacent resident well depth? The well reports are available online. We do not see how any impact conclusions can be drawn without discussing the change to the water table depth and the hydraulic head pressure available to adjacent wells.

12-AX

Comment Letter 12: Erin Hambrick (October 7, 2022)

Vol 3 Appendix I.2 Water Supply Assessment page 806 by Sespe only found 2 wells within 3,000 feet. we can visually spot 3 including mine. What change is expected to the water table from pumping out 42% of this aquifer assuming no recharge?

12-AX
Cont.

I emailed a report request form to the state on 8/31/2022 and received my well report on 9/2/2022; therefore, residential well information is available through an online query tool or with assistance from the state to any professional conducting a study. Discluding such information was ignorant and/or negligent which questions the integrity of the study and its significance in finding less than significant impacts of this project.

12-AY

41% of aquifer depletion for this single project to use is irresponsibly wasting water as surface dust mitigation that will evaporate as quickly as it is applied and not will not replenish aquifers that are several hundred feet below grade.

12-AZ

The DEIR Vol 1 page 415 lists groundwater extraction for the project to be 540 acre-feet which equates to 175,986,000 gallons.

In contrast, the adjacent disadvantaged community residents of Rosamond are severely limited in their water usage. Rosamond Community Services District provides water to 75% of the community households. RCSD is currently following Water Conservation Stage 2 also referred to as a "Minimum Water Shortage" and applied "during periods when a reasonable probability exists that the District will not be able to meet all of the water demands of its customers". All residential outdoor watering activities are severely limited or completely prohibited. <https://www.rosamondcsd.com/our-services/water-conservation>

USGS describes the Antelope Valley "groundwater-level declines as more than 270 feet in some parts of the groundwater basin which have resulted in an increase in pumping lifts, reduced well efficiency, and land subsidence of more than 6 feet in some areas." <https://pubs.er.usgs.gov/publication/sir20145166> Is the land subsidence risk at the site and to neighboring properties increased with the extensive draw planned from the aquifer combined with the cumulative effects of blasting and vibration from mining operations?

12-BA

Vol 1 DEIR page 416 to assess this project impact as less than significant and require no groundwater management plan is negligent of the disadvantaged community literally a few miles down the road that is severely water restricted. Consider a groundwater monitoring and management plan.

Vol 1 DEIR page 422 Cumulative hydrology impacts claims the impact of the project is less than significant. Table 3-9 page 138 describes 6 mining operations permitted within 6 miles, presumably all complying with using water for fugitive dust mitigation. What is the quantitative cumulative hydrologic impact of all mining operations and what threshold defines significance?

12-BB

From neighbor Rex Walker 8/31/2022 "In 40yrs my well level has dropped over 100ft! How much more are they going to drop? In this year alone they have drilled 4 new wells between 30th and Tropic, plus 2 wells farther west, to replace existing wells!" What is the quantitative cumulative hydrologic impact of all the new wells?

12-BC

4.10 Land Use and Planning

Comment Letter 12: Erin Hambrick (October 7, 2022)

No mention of zoning conflict with residential vs mining. If we were to submit an application to build a residence next to an established mining operation, would we be approved? If not, how is the reverse being allowed? Disadvantaged communities are not addressed. Gem Hill is located in an area already designated as a California Disadvantaged Community, which identifies areas disproportionately affected by environmental pollution and other hazards that can lead to negative public health effects, exposure, or environmental degradation. Mining and quarrying are high risk for exposure and transport of Valley Fever spores which cause Valley Fever, a disease already endemic in Kern County. This area is already heavily mined as identified in the cumulative impacts. Expanding mining operations to encroach even closer to communities furthers public health risks and further disadvantages this community.

12-BD

4.11 Mineral Resources

4.12 Noise

Vol 3 Appendix J Noise and Vibration Impact Analysis page 833 disregards many noise contributions and presents many findings near the Kern County CNEL exterior noise and airblast level standards. Consider evaluation of ambient noise at sensitive receptor locations for both peak and offpeak traffic conditions controlled for environmental conditions. Consider noise contributions excluded from project contribution predictions.

12-BE

Page 861 Noise level measurements and photographs were taken on my property without my notification or permission on December 6th 2021. The noise assessment as presented admits to trespassing and placing monitoring devices on our property to collect data for profit. The data was presented to and publicly distributed by Kern County Planning, all without our consent. As we have lived here for many years, the parcel boundaries and ownership contact information is up to date on the Kern County website for our property. Our property surrounding our home is clearly demarcated with "Private Property No Trespassing Signs". A contractor entering and monitoring our property without our knowledge or our permission is illegal trespassing and a violation of our privacy rights on our own private property. It is extremely disrespectful and demonstrates Calportland again performing unregulated and concealed actions against the neighborhood, serving themselves at the expense of others. Furthermore, we can't even comment if this was a "typical" noise day as we had no notice that was occurring. There is minimal to no background city noise at my property. Excluding heavy winds, peak traffic, and occasional daytime disturbances such as the mining operation at Soledad mountain, Air Force aircraft sonic booms, and Willow Springs racing, it is extremely quiet at my property. Referring to the presentation of the illegally obtained measured data from my property in Vol 3 Appendix J page 912, the spreadsheet shows both min and max day noise levels occurring at 3pm and both min and max night noise levels occurring at 10pm. Measuring min and max in the same hour doesn't seem typical and significant noise at 10pm is not representative of my noise environment. We don't have any confidence in the illegal data presented and therefore in the conclusions drawn from it.

12-BF

12-BG

A traffic study should be required based on exceeding 50 peak hour AM and PM trips pursuant to the County of Kern Division 9 Standards for Traffic Engineering, 902-1.02 Project proposed within the Rosamond-Willow Springs Specific Plan.

12-BH

The Vol 1 DEIR vehicle trip table on page 133 provides for 8 miscellaneous trips as well as fuel truck, maintenance truck, portable toilet service, and waste/trash pick-up for a total of 12 daily trips not accounted for in the Vol 3 Appendix K Trip Generation Assessment. Additionally the Vol 3 Appendix K Trip Generation Assessment project trip table 3 on page 955 further minimizes the project's proposed scope as the AM peak hour doesn't include any passenger car travel (up to 20 employees onsite) and the PM peak hour doesn't include any haul truck arrivals (134 daily trips, otherwise split 7 in/out per hour). No assumptions or operating limitations are listed for this reduction in the project's hourly trip impacts.

12-BI

Comment Letter 12: Erin Hambrick (October 7, 2022)

Any peak hour containing passenger car travel, miscellaneous truck trip travel, and in/out haul truck travel (with the proposed factor of 3 applied to large 4+ axle trucks) would exceed the traffic impact limit and therefore require Calportland to provide a traffic impact assessment.

12-BI
Cont.

Page 955 Therefore the Project trip table 3 does not reflect the project scope and seems in error of its own assumptions. This report assessed 7 trucks per hour, 67 trucks per day, 134 truck trips per day which agrees with Vol 1 pg 133 Vehicles and Average Daily Trips. However, Vol 1 includes an additional daily trips for fuel, water, waste management, and miscellaneous and considers employee traffic bidirectional so 20 trips not 10. The project is scoped for 20 employees up to 10 of which are truck drivers but the report only assumes 10 employees leaving the site. How do passenger vehicles leave the site but not arrive at the site? 10 vehicles should be included for the AM peak hour, bringing the AM peak hour total to 52 PCE. How do trucks leave the site in the evening but not arrive? 7 trucks should be included in the PM peak hour, bringing the PM peak hour total to 52 PCE. Both AM and PM require a traffic study despite the report's conflicting conclusion that the project is anticipated to generate fewer than 50 PCE-based peak hour trips during the AM and PM peak hours.

12-BJ

Page 921 Does the noise consider trucks traveling up/down hill? The prediction model shows grade adjustment of 0 so we don't think it does. Noise of heavy trucks traveling up/down hill and braking should be considered for locations adjacent to Gem Hill.

12-BK

Page 848 "The Kern County relies on the 24- hour CNEL level to assess land use compatibility with transportation related noise sources." Consider nonstandard work hours and work-from-home residences. Any ambient noise analysis should consider the noise change to an off peak hour to accommodate sensitive residents working from home.

12-BL

Page 858 The project scheduled operations exceed the Kern County construction noise abatement weekend times. Consider reducing the project scheduled operations as this project is scoping 30 years rather than a typical construction project of a few years.

12-BM

Page 878 Operational vibration impacts of heavy truck activity assumes smooth roads and acknowledges that trucks may create vibration in excess of 70VdB if potholes are present. Mojave-Tropico Rd south of Backus Rd was recently repaved in tar chip resurfacing which is not smooth. Reference photographs submitted of and the current condition of Mojave-Tropico Rd north of Backus Rd which is currently subject to heavy haul truck traffic from the Golden Queen Mine and contains excessive potholes. The conclusion that the heavy truck vibration will be less than significant is absolutely false as the current road condition is not smooth and will exponentially deteriorate during this operation.

12-BN

Page 879 Predicted airblast levels for R5 are 102.3dB, 77% of standard but 207% of measured noise. This is not a less than significant impact as stated. Consider the blasts will be a huge disturbance.

12-BO

Page 922 Predicted noise levels for R5 are 64.4dB, 99% of the Kern allowable standard and 131% increase to measured noise. The prediction assumptions favor less noise emission and the results are near exceedance. Consider revisiting the conclusion that the noise is within limitations. Does the noise assessment include generators to provide power for the well pump, office trailer, and lighting for the site? Does the noise assessment consider increased wind noise due to obstructions, vehicles, fencing, and equipment? Does the noise assessment consider the rough road and the grade of the terrain that will increase vehicle engine and braking noise?

12-BP

Comment Letter 12: Erin Hambrick (October 7, 2022)

Vol 1 Project Scope Page 126 “Drilling would typically be conducted as part of normal mining operations approximately 105 days/year, up to 5 days a week, 10 hours/day with depths of 28 feet. Blasting is planned approximately once per week. Typical blasting activities would take place between the hours of 10:00 a.m. and 4:00 p.m. on weekdays (Monday through Friday); however, hours may shift due to safety driven operational constraints.” Consider a limited schedule for blasting as this is extremely disruptive to adjacent residents. Require blasting schedules to be distributed to local area residents monthly, this would at least provide us some notice. 12-BQ

Consider limiting hours of noise generation. 12 hours or 50% per day and 6 days or 86% per week for 30 years is not neighborly to established residents. 12pm-4pm 4 days per week for nominal operation and 1pm-3pm 1 day per week for blasting is more reasonable for a long term operation adjacent to established residences. 12-BR

4.13 Public Services

4.14 Transportation

As proposed, the project has significant and unavoidable impacts to transportation that should be reconsidered. 12-BS

From neighbor Carol Letus-Dumin on 8/30/2022 “When Calportland ran their test project, they did damage to our roads, and my husband was nearly run off the road several times when they had trucks running up and down Backus and Mojave Tropico.” 12-BT

As we pointed out in the comments to the NOP, again no mention is made of the effects of increased heavy haul truck traffic on the road. The frequent heavy trucking to support the quarry and mining operations has significantly degraded Mojave Tropico and adjacent roads. The outboard portion of the road on both sides is completely crumbled in most areas. The heavy trucks often drive across the yellow centerline impinging on the other lane and endangering opposite way traffic. Large potholes combined with road and rock debris require extreme vigilance, especially at night as the road is not lighted. I personally experienced the consequences of hitting one of these potholes with debris on 114/2021. I was driving below the posted speed limit and had a total tire failure. This concern was submitted to the NOP see Vol 2 Appendix A.3 Notice of Preparation/Initial Study Comments page 278. Despite the recent tar and chip resurfacing on Mojave Tropico Rd south of Backus Rd, the outboard portion of the road on both sides is already crumbling. No mention is made as to whose responsibility it is to oversee the maintenance of the road which directly affects the safety of all motorists and especially that of nearby property owners. 12-BU

The traffic study should be required based on exceeding 50 peak hour AM and PM trips pursuant to the County of Kern Division 9 Standards for Traffic Engineering, 902-1.02 Project proposed within the Rosamond-Willow Springs Specific Plan. See discussion in section 4.12. 12-BV

Vol 1 page 482 describes Mojave-Tropico Rd as “With the exception of moderate curves and undulations near the project site, this segment is generally flat and straight with limited to no shoulders”. This road has NO prepared shoulders at all. Where disturbed it is soft sand and where undisturbed it is unyielding desert vegetation, not suitable for use by light passenger vehicles. It slopes generally uphill with the rising terrain, approximately 300 feet or 4% estimated from topographic maps, along the site boundary. It has multiple winding road warning signs posted in the north and south bound directions. 12-BW

Comment Letter 12: Erin Hambrick (October 7, 2022)

Vol 1 Impact 4.14-3 page 494 The project would substantially increase hazards due to a design feature. This is not mitigated as is falsely stated; therefore, impacts would be significant. Creating additional access roads to intersect Mojave-Tropico Rd adjacent to rising and falling terrain and curves will create blind intersections. This is extremely hazardous as large haul trucks block the entire roadway of travel both directions when entering and exiting the site and there is no shoulder or any place safe for a driver traveling the posted speed limit to suddenly swerve or to stop. According to California MUTCD, "the Winding Road (W1-5) sign should be used where there is a series of turns or curves which requires driving caution". This project allows for heavy haul trucks to fully block the road every 8 minutes in an area of road "which requires driving caution" and normally accommodates school bus routes, residential, and recreational travel at 55 mph. The following photographs were taken from a standard passenger vehicle at driver eye position traveling north and south on Mojave Tropico Rd adjacent to the proposed project site.

12-BX



12-BX
Cont.

Mojave Tropico Rd south of project site looking north. Note rising terrain and warning sign for winding road ahead.

Comment Letter 12: Erin Hambrick (October 7, 2022)



Mojave Tropic Rd adjacent to northeast boundary of project site looking south. Note falling terrain and blind corner. The additional access road would intersect just beyond the line of sight.

12-BX
Cont.



12-BX
Cont.

Mojave Tropico Rd adjacent to northeast boundary of project site looking south. Note falling terrain, blind corner, and winding road warning sign. The additional access road would intersect approximately at the apex of the curve.



12-BX
Cont.

Mojave Tropic Rd adjacent to east boundary of project site looking south. Note falling terrain, and blind corner. The recently constructed access road intersects just beyond the hill so not in sight of southbound drivers.



Mojave Tropic Rd adjacent to southeast boundary of project site looking north. Note rising and falling terrain and blind corner. The recently constructed access road intersects just beyond the hill so not in sight of northbound drivers.

12-BX
Cont.

Vol 1 Impact 4.14-4 page 494 The project would result in inadequate emergency access. This is not mitigated as is falsely stated; therefore, impacts would be significant. Creating additional access roads to intersect Mojave-Tropic Rd adjacent to rising and falling terrain and curves will create blind intersections. This is extremely hazardous as large haul trucks block the entire roadway of travel both directions when entering and exiting the site and there is no shoulder or any place safe for a driver traveling the posted speed limit to suddenly swerve or to stop. These trucks not only create the potential for an emergency but would block the road for emergency vehicles.

12-BY

Vol 1 Impact 4.14-5 page 495 The project would contribute to cumulative transportation and traffic impacts. This is not mitigated as is falsely stated; therefore, impacts would be significant. Creating additional access roads to intersect Mojave-Tropic Rd adjacent to rising and falling terrain and curves will create blind intersections. This is extremely hazardous as large haul trucks block the entire roadway of travel both directions when entering and exiting the site and there is no shoulder or any place safe for a driver traveling the posted speed limit to suddenly swerve or to stop. The additional traffic and additional haul truck traffic will degrade roads and increase congestion on an otherwise residential road with school bus routes.

12-BZ

4.15 Tribal Cultural Resources

Comment Letter 12: Erin Hambrick (October 7, 2022)

We have found obvious artifacts on our property directly adjacent to Calportland's site and assume the striking rock formations would have been as interesting to Native Americans then as it is to the many residents that live in and the recreationists who visit the area now. 12-CA

Vol 3 Cultural Resources Investigation Request full not redacted reports be released and published with EIR. 12-CB

Vol 3 Appendix E.2 Cultural Resources Investigation Page 65 describes the redefined project boundary to 30 acres and thus "the redefined project area boundaries negated the need to impact most of the resources identified". This is archaeological gerrymandering. The project has already impacted way more than 30 acres. With additional access roads already scraped beyond the scope described in this report, Calportland's disregard for archeological artifacts is established. 12-CC

Vol 3 Appendix E.2 Cultural Resources Investigation Page 80 Recommends a full-time archaeological monitoring program. Page 68 Recommends the County to consider consultation with the larger listing [of Native American representatives] as only 1 correspondence is included with the materials. Page 71 "As a result of the previous research completed within one mile of the Cal-Portland property northwest of Rosamond, McKenna et al. concurs with the overall conclusion that the general area is highly sensitive for the presence of prehistoric archaeological resources and moderately sensitive for the presence of historic archaeological resources." Page 123 a subsequent survey failed to relocate a previously noted artifact. This is another example of Calportland's lack of effort to secure the site, a concern that was already brought to Kern County Planning Department nearly a year ago with the release of the NOP. Request all previously discovered and any new discoveries of artifacts be delivered to the nearest accepting museum and a display to describe the cultural findings be funded by Calportland. 12-CD

4.16 Utilities and Service Systems

This project creates a new well which will drain a significant amount of local water from the underground aquifer which provides water to adjacent residents which are an already severely water restricted disadvantaged community. 12-CE

This project creates airborne dust and particles which when distributed over solar panels will reduce their efficiency and therefore the contribution of adjacent residential and commercial solar energy production facilities. 12-CF

4.17 Wildfire

Multiple reports noted refuse and trash dumping onsite which would increase the risk of wildfire to adjacent residents. Require more frequent trash pickups and area cleanups to reduce wildfire risk. 12-CG

The mitigation of mechanically removing all adjacent vegetation to prevent wildfire creates more dust, particles, and airborne debris by exposing and loosening the sand which is toxic to adjacent residents and the adjacent disadvantaged community of Rosamond. The California Department of Public Health lists soil disturbance as increasing risk for Valley Fever spore exposure and transport. Consider preserving adjacent vegetation and soil integrity by mechanically trimming, not bulldozing, to mitigate reducing air quality and requiring an onsite water reservoir and distribution capability to prevent wildfires. Consider requiring dust mitigation for all areas where vegetation is mechanically removed. 12-CH

5 Consequences of Project Implementation

Comment Letter 12: Erin Hambrick (October 7, 2022)

Impacts to air quality, biological resources, cultural resources, greenhouse gas emissions, hazards and hazardous materials, hydrology and water quality, noise, transportation, and wildfire were negligently evaluated as stated in the preceding sections. This project as described has already and will continue to destroy the fragile desert environment surrounding the Gem Hill residents and the adjacent communities of Rosamond and Mojave. The project will take away seasonal water from local and migratory wildlife and groundwater from established residential wells. The project will take away unique scenic vistas, habitat, and dark skies. The project will add constant noise, lighting, trash, pollution, and disturbance just outside of town. The project will again destroy the roads it uses and increase the risk of accidents on those roads. The tiny handful of jobs it creates are low skill high turnover often contracted positions that bring little value to the community. The project offers only harm and no benefits at all to the adjacent residents, communities, and county.

12-CI

Disadvantaged communities are not addressed in either NOP or DEIR. Gem Hill is located in areas already designated as a California Disadvantaged Communities, which identifies areas disproportionately affected by environmental pollution and other hazards that can lead to negative public health effects, exposure, or environmental degradation. The presidential Executive Order 12898, Federal Actions To Address Environmental Justice In Minority Populations and Low-Income Populations, requires assessing the potential for disproportionate environmental impacts and other significant environmental justice concerns for populations across the country. The United States Environmental Protection Agency identifies the Gem Hill area as in 95-100 percentile for its environmental justice indexes. Reviewing the EPA information on socioeconomic indicators, the following maps show the Gem Hill area communities to be primarily low income, people of color, less than high school education, and particularly closest to Gem Hill to be over age 64. The EPA also identifies Gem Hill and the surrounding area as 95-100 percentile for ozone pollution. The Gem Hill area is clearly disadvantaged and already subject to some of the worst environmental pollution in the United States yet the Kern County Planning and Calportland fail to even address this issue. This is negligent of the environment and the community being taken advantage of.

12-CJ

<https://ejscreen.epa.gov/mapper/>

Comment Letter 12: Erin Hambrick (October 7, 2022)

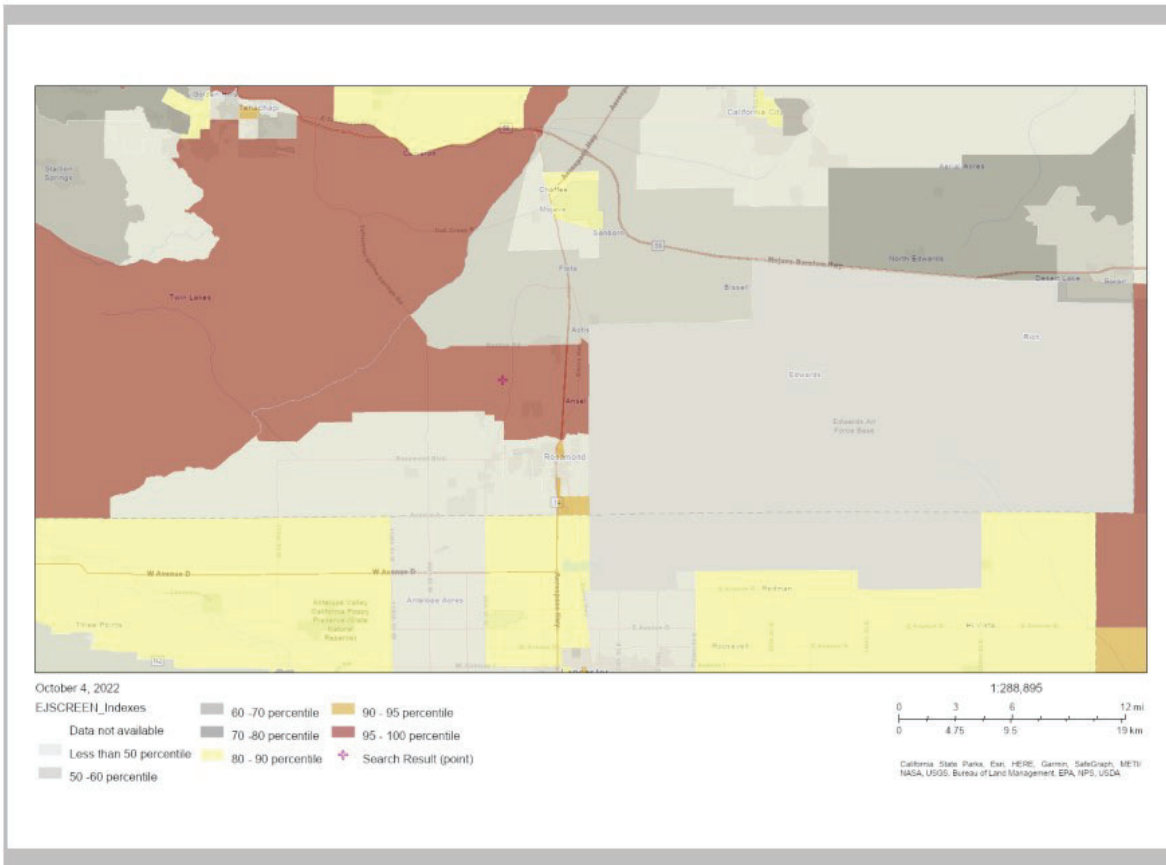


EJSCREEN Report (Version 2.0)



1 mile Ring Centered at 34.924223,-118.221130, CALIFORNIA, EPA Region 9

Approximate Population: 39
Input Area (sq. miles): 3.14

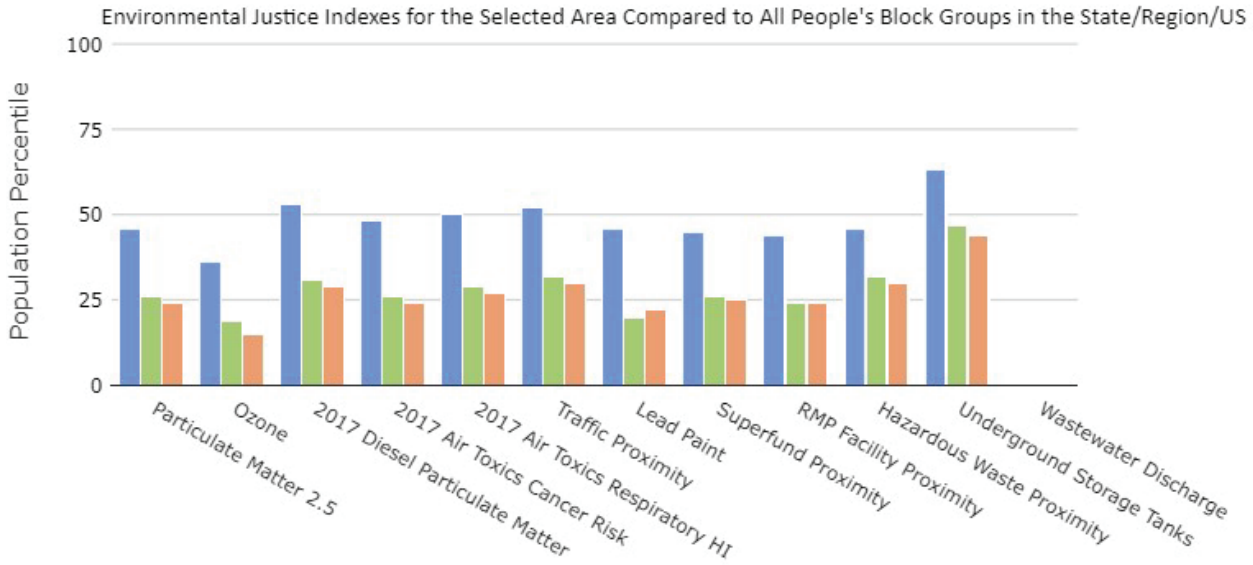


Gem Hill indicated by magenta cross within dark brown area indicated as 95-100 percentile on environmental justice screening indicators from EPA website 10-04-2022.

12-CJ
Cont.

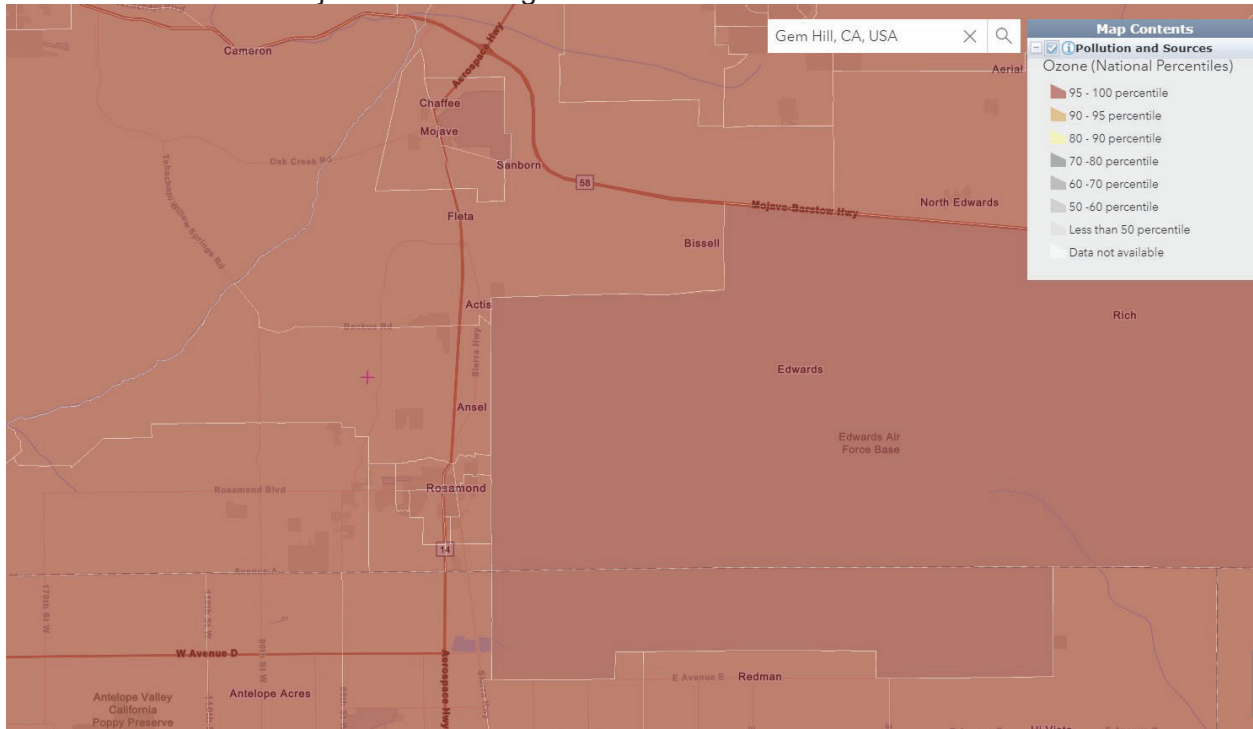
Comment Letter 12: Erin Hambrick (October 7, 2022)

State Percentile Regional Percentile USA Percentile



Environmental Justice Indexes

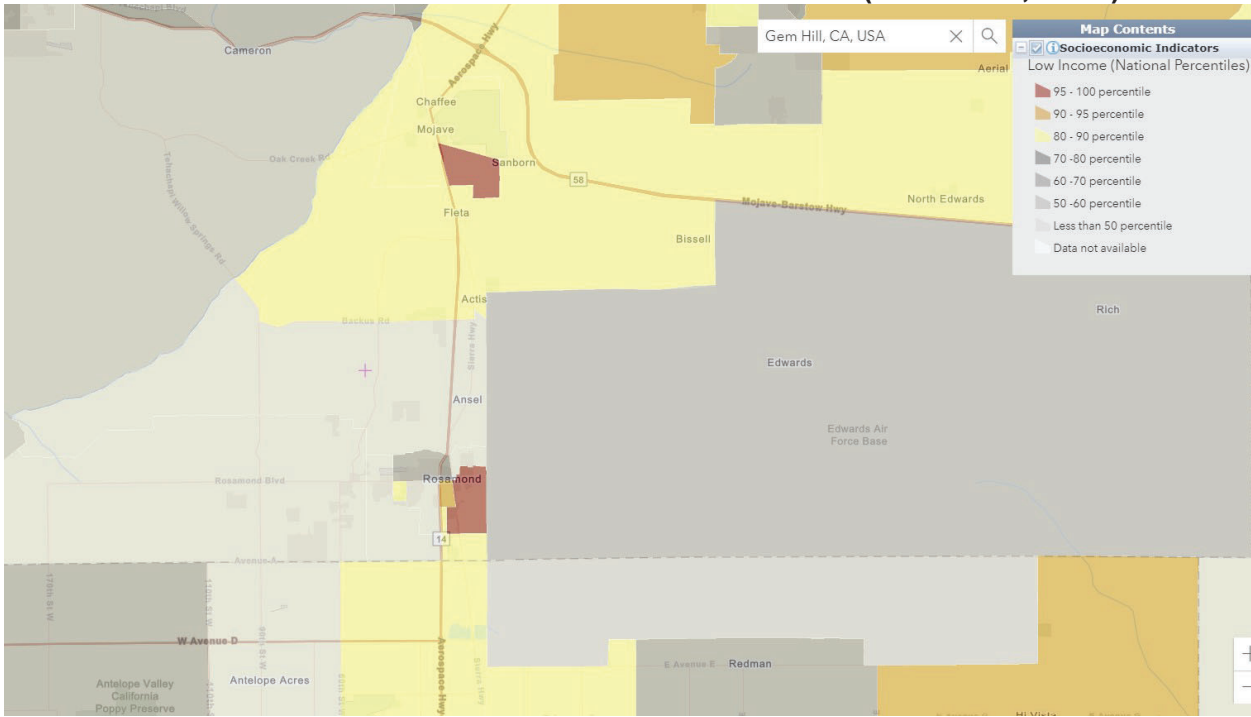
Gem Hill environmental justice screening indicators from EPA website 10-04-2022.



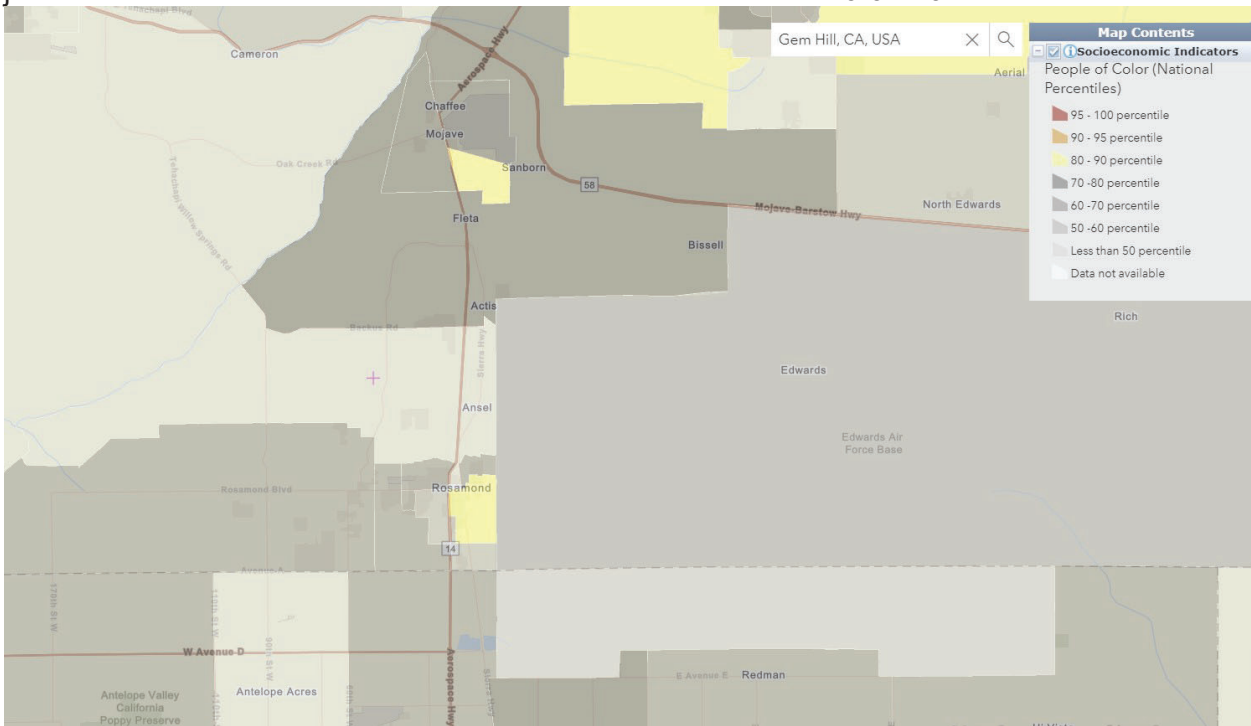
Gem Hill indicated by magenta cross within dark brown area indicated as 95-100 percentile on ozone pollution from EPA website 10-04-2022.

12-CJ
Cont.

Comment Letter 12: Erin Hambrick (October 7, 2022)



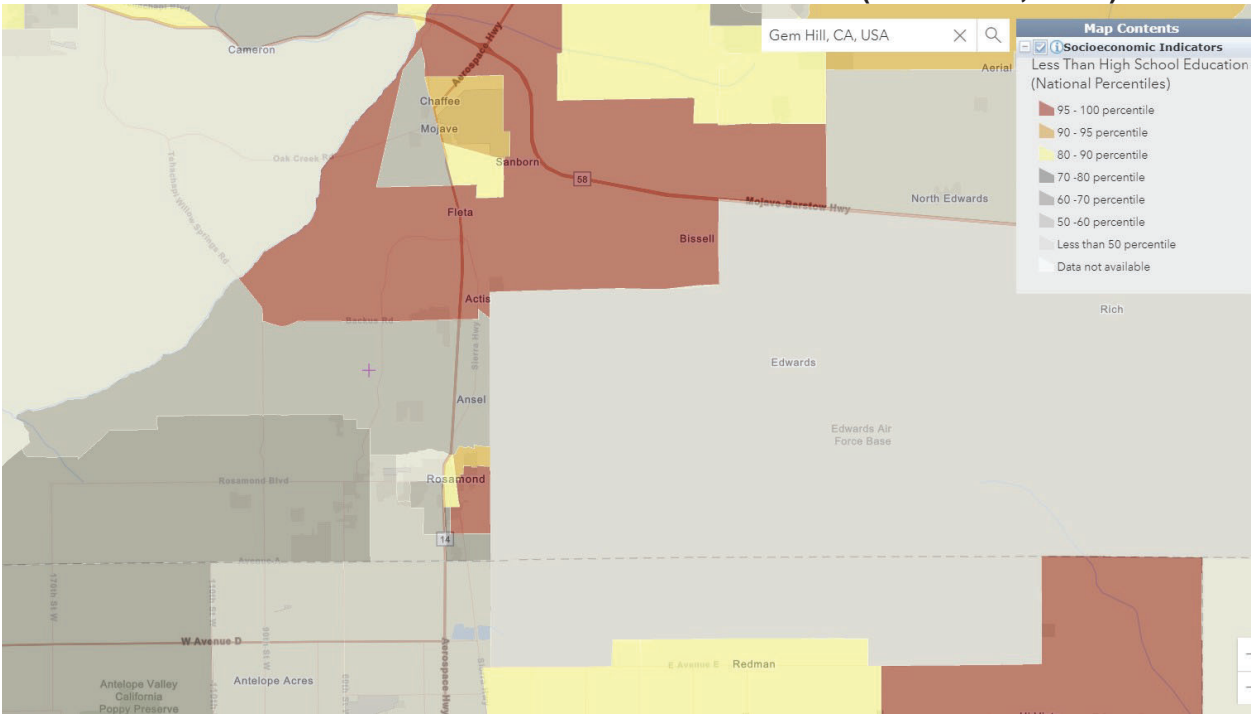
Gem Hill indicated by magenta cross within grey area surrounded by 80-100 percentile on environmental justice low income socioeconomic indicators from EPA website 10-04-2022.



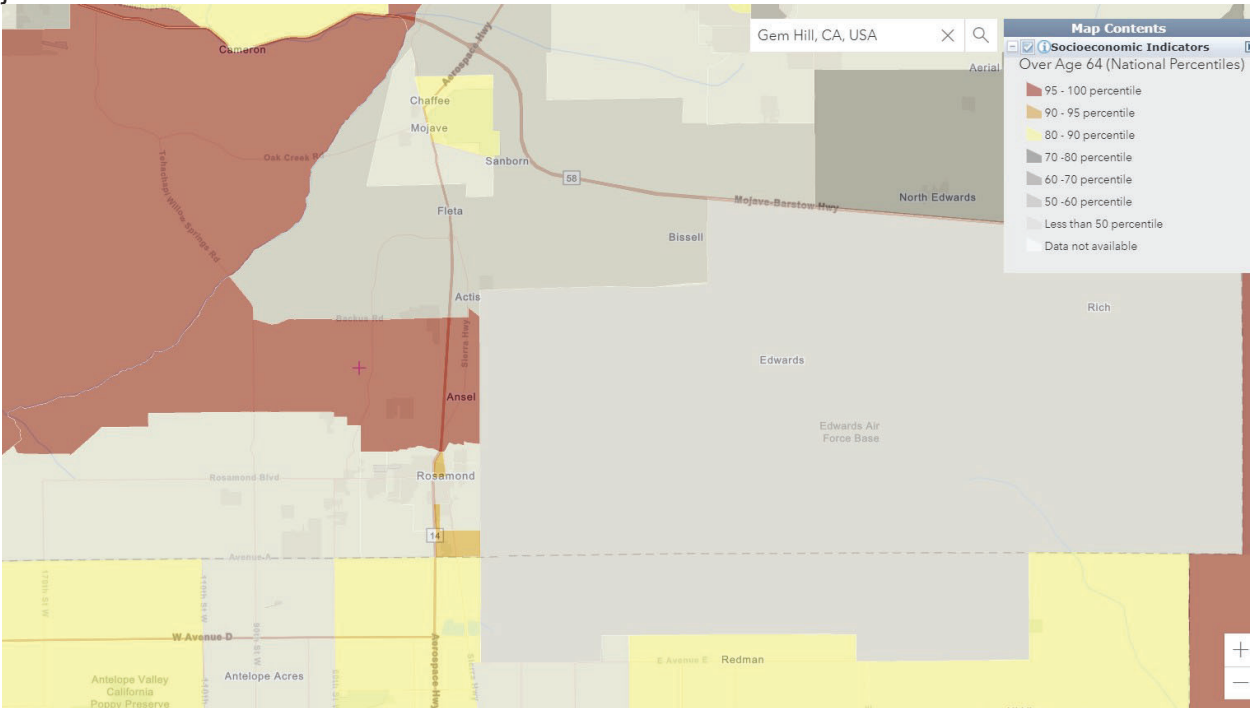
Gem Hill indicated by magenta cross within grey area surrounded by 80-90 percentile on environmental justice people of color socioeconomic indicators from EPA website 10-04-2022.

12-CJ
Cont.

Comment Letter 12: Erin Hambrick (October 7, 2022)

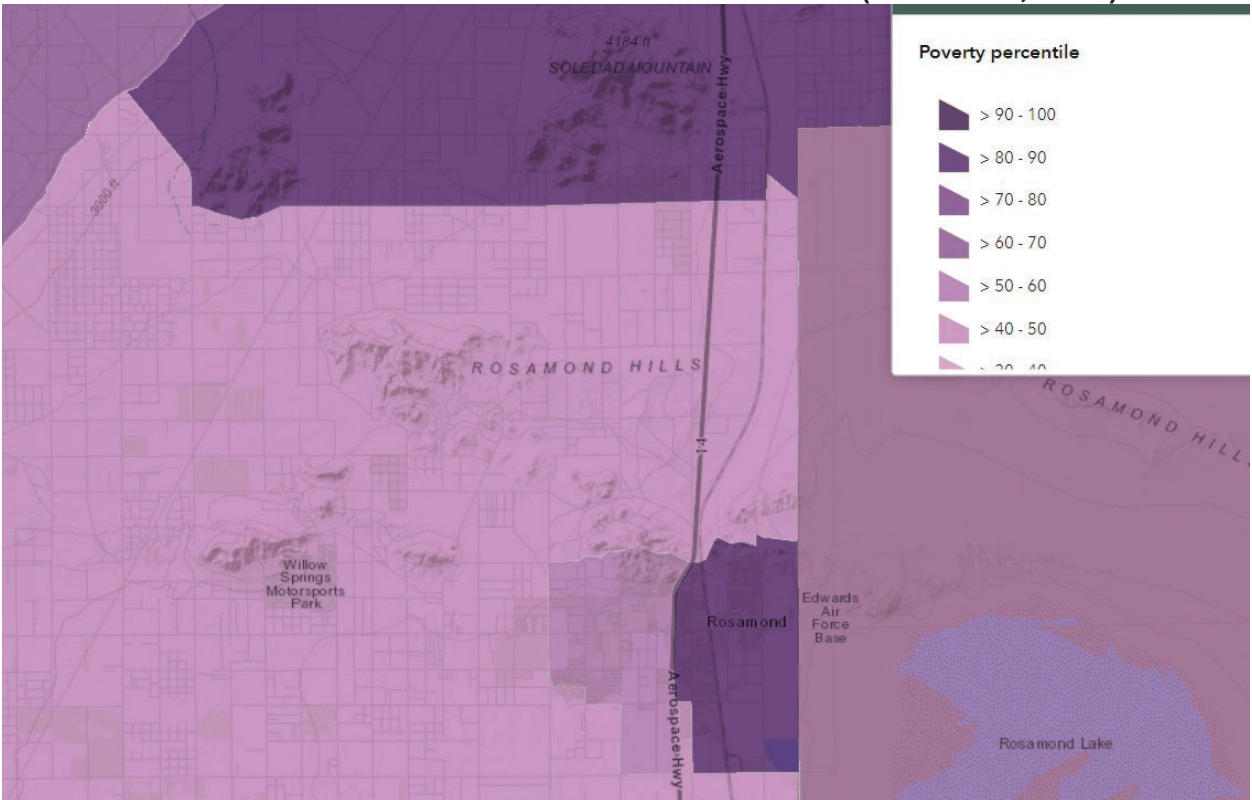


Gem Hill indicated by magenta cross within grey area surrounded by 80-100 percentile on environmental justice low education socioeconomic indicators from EPA website 10-04-2022.



Gem Hill indicated by magenta cross within grey area surrounded by 80-100 percentile on environmental justice senior citizen socioeconomic indicators from EPA website 10-04-2022.

12-CJ
Cont.



Gem Hill located in center of map, indicating poverty levels in the 42-89 percentile from California Office of Environmental Health Hazard Assessment accessed on 10-04-2022.

<https://oehha.ca.gov/calenviroscreen/report/calenviroscreen-40>

12-CJ
Cont.

6 Alternatives

6.2.1 Alternative Locations page 545 dismisses further evaluation because Calportland did not provide the research to the county. Dismissing evaluation of alternative locations due to insufficient data provided by the project proposer is negligent. The premise of CEQA is to consider “locations that would avoid or substantially lessen any of the significant effects of the project”; therefore, it is in compliance to speculatively investigate alternatives and not in compliance to speculatively assume there are no alternative locations.

12-CK

DEIR Vol 1 page 52 and page 544 states “The research concluded that there are no existing operation sites closer to the market than the proposed project site.” Referring again to the XPRIZE competition and the McKinley study cited in 4.7, locating a mine close to the cement factory and substituting natural clinker benefit the producer but do not reduce carbon. While the closeness of the mine to the cement factory may benefit Calportland, it offers no benefit to Kern County, and so should not be used as an argument to dismiss alternative locations.

12-CL

As the county already concludes in the DEIR that this project has significant unavoidable impacts, consider Calportland to find another site to mine pozzolan that is not directly adjacent to established residences and a disadvantaged community, has more suitable infrastructure to suit their haul truck operation, has abundant water resources for dust mitigation, and would cause less significant unavoidable impacts.

12-CM

DEIR Vol 1 page 52 dismisses a phased approach because “it is unknown whether the size of the site and proposed quarry would allow for a phased approach.” Dismissing evaluation of a phased approach due to insufficient data provided by the project proposer is negligent. Consider the proposer providing a phased approach to be evaluated for reducing the significant unmitigated impacts of this project.

12-CN

Comment Letter 12: Erin Hambrick (October 7, 2022)

Consider the alternative proposals listed in the DEIR. Consider the alternative reduced scope proposals until a re-evaluation by all County agencies including public comments can conclude Calportland has stayed within the project scope and complied with mitigation measures. Recent history already proves Calportland will exceed the scope of its permits as well as negligently incomply with safety and nuisance mitigation requirements.

12-CO

Response to Comment Letter 12: Erin Hambrick (October 7, 2022)

12-A: The commenter provides generalized comments on the Draft EIR, stating that the Draft EIR fails to address concerns about health hazards, air quality, water quality, noise, transportation, and environmental justice. The commenter notes that certain comments were raised in response to the NOP. The comment is noted for the record.

As part of the ongoing CEQA process, and as discussed in Draft EIR Section 2.4.1, the Lead Agency circulated a Notice of Preparation/Initial Study (NOP/IS) to responsible and affected agencies and other interested parties for a 30-day public review period between November 4, 2021, and December 6, 2021, consistent with CEQA Guidelines section 15082. The NOP/IS was also posted in the County Clerk's office for the required 30-day period and sent to the State Clearinghouse at the California Governor's Office of Planning and Research. The NOP/IS solicited input regarding the scope and proposed content of the Draft EIR. The NOP/IS and all comment letters received are provided in Appendix A of the Draft EIR. (Draft EIR, p. 2-6.)

As discussed in Draft EIR section 2.4.2, the Lead Agency also held a scoping meeting for agencies and interested members of the public to provide comments regarding, but not limited to, the range of actions, alternatives, mitigation measure, and environmental effects to be analyzed in the Draft EIR. The Lead Agency hosted the scoping meeting at 1:30 PM on November 18, 2021, at the Kern County Planning and Natural Resources Department in Bakersfield, California. (Draft EIR, p. 2-6.)

As indicated in Draft EIR Table 2-1, the Lead Agency received numerous public comments on the NOP/IS during the public review period. Moreover, as indicated in Draft EIR Table 2-2, the Lead Agency received numerous comments on the NOP/IS following the conclusion of the public review period. All relevant comments received by the Lead Agency were analyzed and/or addressed in the Draft EIR. (Draft EIR, pp. 2-7 – 2-15.)

12-B: The commenter states that she has not been approached by any agency concerning the monitoring of her property, and that there has been trespassing on her property to obtain information located in the Draft EIR. The comment is noted for the record.

The Lead Agency notes that the comment does not raise a significant environmental concern and need not be addressed in these responses to comments. (14 Cal. Code Regs., 15088(c).) Notwithstanding, the Lead Agency notes that the Draft EIR does not authorize the project proponent to trespass on the private property of others.

The preparer of the Noise and Vibration Impact Analysis (Appendix J of the DEIR) has apprised the Lead Agency that Noise level measurements are collected at locations within the public right of way. However, noise receivers are commonly identified on private property to calculate the Project related noise levels at the building façade or outdoor living areas of noise sensitive residences.

12-C: The commenter notes that the Draft EIR does not discuss existing disturbances, including removal of western Joshua tree, and existing roads located outside of the project boundary. The

commenter also states the disturbance causes significant dust and should be addressed in the reclamation plan. The comment is noted for the record.

The Lead Agency notes that the comment does not raise a significant environmental concern about the Draft EIR and need not be addressed in these responses to comments. (14 Cal. Code Regs., 15088(c).) Pre-existing development outside of the project site, standing alone, is outside of the scope of the current environmental review.

The Lead Agency further notes that the applicant, like all landowners in the County, has the right to develop and improve their access to their property in conformance with the County's Grading Ordinance. Here, the County Grading Ordinance allows for a landowner to grade access roads with cut and fill slopes less than 2 feet in height without a grading permit. (Kern County Code, § 17.28.040.B.12.) The County is not aware of any grading, on the project site or off of the project site, that is in violation of this standard.

With respect to grading completed on the project site in 2019, the County notes that such grading was completed pursuant to a validly issued grading permit, Permit No. K2018-06271. Grading is allowed, and will be continued to be allowed, outside of the project site so long as it is completed consistent with the County Code.

Even if such grading were illegal, which the County has no reason to believe is the case, the proper baseline for CEQA analysis is the existing site conditions, even if the condition was caused by illegal activity. (*Riverwatch v. County of San Diego* (1999) 76 Cal.App.4th 1428, 1451.)

Lastly, the project does seek Lead Agency approval of a reclamation plan, a discretionary approval that is analyzed in the Draft EIR. Roads that are not intended to remain following the completion of mining and all other mined lands will be reclaimed as required by SMARA and County Code. (See, e.g., Draft EIR, Chapter 3 [Project Description]; Draft EIR, Appendix B [Surface Mining and Reclamation Plan].)

In summary, all that are the subject of this project are analyzed in the draft EIR. There has been, and will continue to be, access roads and other minor grading disturbances in the vicinity of the project site, including, potentially, disturbances on other properties owned by the applicant. These past and potential future disturbances are not, however, part of this project.

12-D: The commenter states that the Draft EIR allows for periodic lighting with no lighting plan, and that, until a lighting plan is in place, the Draft EIR cannot analyze whether the lighting plan would reduce impacts to a less than significant level. The commenter requests that a lighting plan be included within the Draft EIR. The comment is noted for the record. The Draft EIR considered and analyzed potential impacts related to new sources of light and glare and determined these impacts would be mitigated to a less than significant level. (Draft EIR, pp. 4.1-30 – 4.1-31.)

When a lead agency has evaluated the potentially significant impacts of a project and has identified measures that will mitigate those impacts, the lead agency does not have to commit to any particular mitigation measure in the EIR, so long as it commits to mitigating the

significant impacts of the project. Further, the details of exactly how mitigation will be achieved under the identified mitigation measure can be deferred pending completion of a future study. Moreover, for the kinds of impacts for which mitigation is known to be feasible, but where practical considerations prohibit devising such measure early in the planning process, the agency can commit itself to eventually devising measures that will satisfy specific performance criteria articulated at the time of project approval. When future action to carry a project forward is contingent upon devising means to satisfy such criteria, the lead agency should be able to rely on its commitment as evidence that potentially significant impacts will be mitigated. (14 Cal. Code Regs. 15126.4(a)(1)(B); *North Coast rivers Alliance v. Marin Municipal Water Dist. Bd. of Directors* (2013) 216 Cal.App.4th 614, 629.)

As indicated in Draft EIR Section 4.1.4, the project's typical hours of operation are daylight hours (generally 7:00 a.m. to 7:00 a.m., Monday through Saturday depending on the season), six days per week, depending on market demand, with the understanding that longer or alternative hours may be required due to operational constraints. Although the proposed project would operate primarily during daylight hours (7:00 a.m. to 7:00 p.m.), nighttime lighting for security, safety, and operational purposes could be utilized. A specific lighting plan for the project has not been provided. The Draft EIR reasonably assumes that some nighttime lighting for security, safety, and operational purposes would be utilized. The analysis assumes that lighting would be used at the parking, scale, and security area, and at various other locations of the site using portable lights and generators. Lights would also be used on vehicles and equipment for various operations throughout the site and, haul truck operation (which would occur onsite and offsite). (Draft EIR p. 4.1-30.)

As further indicated in the Draft EIR, although no direct light spill to offsite properties is anticipated, the potential visibility of site lighting within an area that currently does not include any sources of light is considered potentially significant as compared to existing conditions. Given the absence of existing light sources at the site, the absence of screening vegetation around the project site, and the potential visibility of onsite light from offsite areas, this analysis concludes that unshielded lighting could generate some "light pollution" in the area resulting in a potentially significant impact. Therefore, the impact associated with the additional light sources in conjunction with the project is considered potentially significant. Accordingly, the Draft EIR proposed Mitigation Measures 4.1-2 and 4.1-3, which require compliance with the Kern County Dark Skies Ordinance, and preparation of an outdoor lighting plan, to reduce this potential impact to a less-than-significant level. (Draft EIR p. 4.1-30 – 4.1-31.)

The County's Dark Skies Ordinance, located at Section 19.81 of the Kern County Zoning Ordinance, contains prescriptive performance standards and requirements that have been demonstrated to reduce potentially significant impacts relating from light pollution. Accordingly, the Mitigation Measure does not improperly defer mitigation for a potentially significant impact under CEQA. (*Gray v. County of Madera* (2008) 167 Cal.App.4th 1099, 1126 [holding that the county appropriate deferred design of exterior lighting system subject to performance standards until facility is built and placement of lights can be determined].)

12-E: The commenter states that the Draft EIR only analyzed the aesthetic impacts of the project's Quarry, not stockpiles or other areas. The comment is noted for the record. Contrary to the

commenter's assertion, the Draft EIR considered the entire project's potential aesthetic impacts, not simply Quarry areas. (See Draft EIR, pp. 4.1-1 – 4.1-32.)

As indicated in the Draft EIR, the project site's potential aesthetic impacts were based on representative viewpoints selected from public viewer group locations throughout the surrounding areas. The Lead Agency selected five key observation point for photo simulations that would best illustrate the visual changes resulting from the project. (Draft EIR p. 4.1-9.)

The photo simulations assumed that project disturbance would occur as outlined in Draft EIR Figure 4.1-3 over the 30-year life of the project. As indicated in the Draft EIR and the photo simulations, the photo simulations conservatively depict the project site's estimated appearance with the mine area fully excavated, topsoil stockpile at its maximum anticipated size, and overburden stockpiles fully developed, even though this condition would not occur until nearly the end of the proposed 30-year life of operation. (Draft EIR p. 4.1-9.)

The Draft EIR also discusses each of the five key observation points used for the photo simulations, which demonstrates that the Draft EIR considered all of the project's potential impacts, not simply Quarry-related potential impacts. For example, discussing key observation point # 2, the Draft EIR notes that Figure 4.1-8 shows a widened access road and the upper portions of the quarry (central portion of photo simulation), the topsoil stockpile (left of center in photo simulation), and the upper portion of the north overburden stockpile (left of photo simulation). (Draft EIR p. 4.1-18.) Likewise, the Draft EIR notes that Figure 4.1-11, showing a photo simulation from key observation viewpoint # 3, shows the topsoil stockpile and north and south overburden stockpiles. (Draft EIR p. 4.1-19.)

12-F: The commenter disagrees with the visual quality rating analysis for water and scarcity. The commenter provides photographs of drainages located outside of the project boundary that show visible water flows and retainment of water during wet years. The comment is noted for the record.

With respect to the comment on the visual quality rating analysis for water, the Lead Agency notes that the photographs provided by the commenter show streams located outside of the project site. Moreover, even if the photos showed visible water flows and retainment on the Project site, analysis of visual impacts is one of the more subjective areas of impact analysis in an EIR. Here, the Draft EIR's Visual Quality Rating Analysis determined that the project would not reduce the visual quality of "water" on the project site. In other words, even if the baseline visual quality of "water" were higher because of, for example, visible water flows and retainment, the project would not reduce that visual quality. Accordingly, the analysis does not change. (See Draft EIR p. 4.1-15.)

With respect to the comment on the visual rating analysis for scarcity, the Draft EIR's *Visual Quality Rating Analysis* determined the baseline scarcity category merited a score of 3 points, meaning it is "distinctive, though somewhat similar to others within the region," because driving along "Mojave-Tropico Road adjacent to the project site provides a somewhat unique vantage point of the Rosamond Hills; however, routes through hilled topographic areas are available elsewhere in the region." (Draft EIR pp. 4.1-13, 4.1-15.) Again, such determinations are inherently subjective, and reflects a "qualitative judgment not a set of quantifiable

parameters.” (Eureka Citizens for Responsible Gov’t v. City of Eureka (2007) 147 Cal.App.4th 357, 376.) Notwithstanding, given the inherent subjective nature of aesthetic impacts, and based on the detailed analysis in the Draft EIR, the Lead Agency has determined that certain aesthetic impacts will be significant and unavoidable, even with all feasible mitigation required.

- 12-G:** The commenter requests that the Lead Agency prepare a Traffic Study to consider the impact of the project on potential viewers of the project site traveling on Mojave-Tropico Road. The comment is noted for the record.

The Lead Agency notes that Urban Crossroads prepared the *Gem Hill Quarry Trip Generation Assessment (Revised)*. As indicated in the Draft EIR, the project will not generate 50 or more vehicles during any peak hour and, therefore, a traffic study is not required for the project. (Draft EIR p. 4.14-1.) See Response to Comment 12-BH.

- 12-H:** The commenter states that the mitigation measures for site maintenance, trash abatement, and pest management are inadequate, and requests additional information. The comment is noted for the record.

The Lead Agency notes that CEQA does not specify the types of mitigation measures that should be adopted for a project. The decision is left to the discretion of the Lead Agency. (*Goleta Union School Dist. V. Regents of Univ. of California* (1995) 37 Cal.App.4th 1025, 1030.) Here, the Lead Agency has concluded, based on experience with other similar projects, that the site maintenance, trash abatement, and pest management measure required in the proposed mitigations will reduce potential impacts to a less than significant level. The commenter provides no information on why the proposed mitigation is inadequate.

- 12-I:** The commenter asks why the Lead Agency is considering approval of a project that would have a significant and unavoidable impacts on visual resources. The comment is noted for the record.

The Lead Agency notes that the comment does not raise a significant environmental concern and need not be addressed in these responses to comments. (14 Cal. Code Regs., 15088(c).) If the Lead Agency approves a project that has significant and unavoidable environmental impacts, the Lead Agency must approve a written statement of overriding considerations which explains why the social, economic, legal, technical, or other beneficial aspects of the project outweigh the unavoidable adverse environmental impacts and why the Lead Agency is willing to accept such impacts. (Pub. Resources Code, § 15093.)

- 12-J:** The commenter states that the Draft EIR’s Figures showing baseline conditions from key observation areas are misleading in that they state “mining has not commenced,” as the commenter alleges the applicant has commenced mining activities on the project site. The comment is noted for the record.

As discussed in Response to Comment 12-C, the County notes that the applicant was issued a grading permit, Permit No. K2018-06271, for the commenter’s referenced site disturbances. These activities were not surface mining operations as defined by County Code and state law. Thus, the Draft EIR’s baseline visual figures accurately state that “mining has not commenced.”

- 12-K:** The commenter states that the applicant has an established history of noncompliance with dust mitigation and asks what evidence demonstrates the applicant will properly mitigate for dust impacts in the future. The comment is noted for the record.

The Lead Agency notes that the comment does not raise a significant environmental concern and need not be addressed in these responses to comments. (14 Cal. Code Regs., 15088(c).) Notwithstanding, the Lead Agency notes that referenced EKAPCD Complaints log shows that the EKAPCD investigated the complaint and did not observe fugitive dust leaving the property during the initial visit or a follow up visit.

As indicated in Draft EIR Section 4.2.4, the project's anticipated short-term and long-term PM emissions are provided in Draft EIR Tables 4.2-5 and 4.2-7. As indicated in the Draft EIR, the project's criteria pollutant emissions, including PM emissions, will be less than the applicable thresholds of significance. (Draft EIR, Tbls. 4.2-5, 4.2-7.) Although construction, operations, and reclamation emissions are below the thresholds of significance, the Lead Agency nonetheless considers the project's potential fugitive dust emissions to be potentially significant and, therefore, the Draft EIR proposed Mitigation Measures 4.2-2, 4.2-3, 4.2-4, and 4.2-5 to ensure potential impacts related to fugitive dust are reduced to a less than significant impact. (Draft EIR, pp. 4.2-46 – 4.2-48.)

With respect to the comment concerning mitigation compliance, the Final EIR for the project includes a Mitigation Measure Monitoring Program (MMMP). The MMMP will ensure that the applicant implements all approved mitigation measures. When making findings required by Public Resources Code section 21081, the Planning Commission will have the opportunity to adopt the MMMP as proposed or modified.

- 12-L:** The commenter requests that the Lead Agency consider requiring all haul truck beds be covered to reduce dust and debris. The comment is noted for the record.

As indicated in the Draft EIR, the project is located within the jurisdiction of the Eastern Kern Air Pollution Control District (EKAPCD), which has regulatory authority over stationary source air emissions and is responsible for implementing certain Federal and State Clean Air Act programs and regulations. Accordingly, the Draft EIR proposed Mitigation Measure 4.2-1, which requires the project to comply with all applicable requirements of the EKAPCD. (Draft EIR, p. 4.2-38 – 4.2-40.) The Draft EIR also proposes that some of the EKAPCD requirements be required as mitigation measures. Relevant to these comments, the Draft EIR proposed Mitigation Measure 4.2-2 which requires, among other dust controls, that material loads on trucks shall maintain at least 6 inches of freeboard space below the top of container, rather than covering, and that track out debris shall not extend 50 feet or more from the project and shall be removed or isolated behind a locked gate at the end of each workday. (Draft EIR, pp. 4.2-46 – 4.2-47.)

- 12-M:** The commenter notes that the Draft EIR discusses the different emissions that are expected to be released by project activities, and asks whether the operator will post Prop 65 signs and alert neighbors of these emissions. The comment is noted for the record.

The Lead Agency notes that the comment does not raise a significant environmental concern and need not be addressed in these responses to comments. (14 Cal. Code Regs., 15088(c).) Notwithstanding, the Lead Agency notes that the operator will post Proposition 65 signage at the project site. Further, it is the Draft EIR that provides the public with the notice of the project's potential emissions.

12-N: The commenter requests that the Lead Agency consider setting up additional monitoring stations to analyze particulate matter emissions (“dust”) and take visibility measurements. The comment is noted for the record. The Draft EIR analyzed potential impacts related to dust and air quality and determined these impacts would be mitigated to a less than significant level. (Draft EIR, pp. 4.2-38 – 4.2-59.)

As an initial response, the EKAPCD, not the Lead Agency, is responsible for monitoring stations in the EKAPCD's jurisdictional area. The Lead Agency further notes that Lilburn Corporation prepared *Air Quality and Greenhouse Gas Emission Assessment for Gem Hill Quarry, Kern County, California* (2022a) to assess the project's potential air quality impacts, including impacts on human health. As indicated in Draft EIR Section 4.2.4, the project's anticipated short-term and long-term PM emissions are provided in Draft EIR Tables 4.2-5 and 4.2-7. As indicated in the Draft EIR, the project's criteria pollutant emissions, including PM emissions, will be less than the applicable thresholds of significance. (Draft EIR, Tbls. 4.2-5, 4.2-7.) Although construction, operations, and reclamation emissions are below the thresholds of significance, the Lead Agency nonetheless considers the project's potential fugitive dust emissions to be potentially significant and, therefore, the Draft EIR proposed Mitigation Measures 4.2-2, 4.2-3, 4.2-4, and 4.2-5 to ensure potential impacts related to fugitive dust are reduced to a less than significant impact. (Draft EIR, pp. 4.2-46 – 4.2-48.) With implementation of these mitigation measures, impacts will be reduced to a less than significant level, and additional monitoring stations are not required.

12-O: The commenter states that the Kern County Guidelines for Preparing an Air Quality Assessment for Use in Environmental Impact Reports (2006) requires analysis of CO hotspots and, therefore, requests that CO hotspots be analyzed in the Draft EIR. The comment is noted for the record. To the contrary, the Kern County Guidelines for Preparing an Air Quality Assessment for Use in Environmental Impact Reports (2006) do not require a CO hot spot analysis for this project.

As indicated in the Draft EIR:

A CO “hotspot” can occur when vehicles are idling at highly congested intersections. CO hotspots can adversely affect nearby sensitive receptors. The Kern County Planning and Natural Resources Department's Guidelines for Preparing an Air Quality Assessment for Use in Environmental Impact Reports (2006) states that CO hotspots must be analyzed when one of the following conditions occur: (a) a project increases traffic at an intersection or roadway that operates at a Level of Service (LOS) E or worse; (b) a project involves adding signalization and/or channelization to an intersection; or (c) sensitive receptors such as residences, schools, hospitals, etc., are located in the vicinity of the affected intersection or signalization.

The project is not located in the vicinity of an intersection operating at level of service (LOS) E or worse. The project trip generation (discussed further in Section 4.14, Transportation, is not anticipated to have the potential to cause a decrease the LOS of any intersection in the project vicinity. Therefore, the project would not have CO hotspot-related impacts, and would not contribute a significant level of CO such that localized air quality and human health would be substantially degraded. Therefore, impacts would be less than significant, and a CO hotspot analysis is not required.

(Draft EIR p. 4.2-56.)

12-P: The commenter requests debris removal and truck clean off prior to haul trucks leaving the site, stating that track out should not be permitted. The comment is noted for the record.

As indicated in the Draft EIR, the project is located within the jurisdiction of the EKAPCD, which has regulatory authority over stationary source air emissions and is responsible for implementing certain Federal and State Clean Air Act programs and regulations. Accordingly, the Draft EIR proposed Mitigation Measure 4.2-1, which requires the project to comply with all applicable requirements of the EKAPCD. (Draft EIR, p. 4.2-38 – 4.2-40.) The Draft EIR also proposes that some of the EKAPCD requirements be required as mitigation measures. Relevant to these comments, the Draft EIR proposed Mitigation Measure 4.2-2 which requires, among other controls, that that track out debris shall not extend 50 feet or more from the project and shall be removed or isolated behind a locked gate at the end of each workday. (Draft EIR, pp. 4.2-46 – 4.2-47.)

12-Q: The commenter states that the Draft EIR’s conclusions regarding the Impacts 4.2-2 and 4.2-4, concerning the project’s net increase in criteria pollutants and cumulative air quality impacts, are “false.” The comment is noted for the record.

The Lead Agency notes that the commenter fails to provide any explanation or evidence that shows the Draft EIR’s analysis is incorrect. As indicated in the Draft EIR, the project’s criteria pollutant emissions were analyzed against the applicable thresholds of significance and it was determined that the project’s construction, operational, and reclamation emissions would be less than the thresholds of significance. Notwithstanding, the Lead Agency considered project emissions related to fugitive dust to be potentially significant and, therefore, proposed Mitigation Measures 4.2-2 through 4.2-7 to ensure potential fugitive dust emissions are reduced to a less than significant level. (Draft EIR pp. 4.2-40 – 4.2-48.)

As further indicated in the Draft EIR, the project’s cumulative impacts were analyzed. Specifically, the Draft EIR provides the following:

EKAPCD’s application of thresholds of significance for emission of criteria pollutants determines whether a project’s emissions would have a cumulatively considerable contribution of emissions of a criteria pollutant for which the EKAPCD is nonattainment. If project emissions exceed the thresholds of significance for criteria pollutants, the project would be expected to result in a considerable net increase of any criteria pollutant for which the EKAPCD is in

nonattainment under applicable Federal or State ambient air quality standards. The portion of the MDAB within EKAPCD jurisdiction is in nonattainment for PM2.5, PM10, and ozone. Ozone is addressed by examining its precursors which are NOX, ROG, and CO.

As discussed above at Impact 4.2-2 and presented above in Table 4.2-5, Construction-Related Emissions, and Table 4.2-7, Operational Emissions Summary, project criteria pollutant emissions would be well below the significance thresholds established by the EKAPCD and the County. Development of the proposed project will not exceed the EKAPCD or Kern County significance thresholds and will be conditioned to comply with current EKAPCD rules and regulations to minimize impacts to air quality as discussed herein. Further, as discussed at Impact 4.2-3, the project is not expected to cause or substantially contribute to significant human health effects associated with criteria air pollutants, toxic air contaminants, CO “hot spots”, valley fever, or asbestos. Therefore, construction and operation of the proposed project is not anticipated to generate significant impacts or generate significant criteria pollutant emissions. As such, cumulative air quality impacts are anticipated to be less than significant.

(Draft EIR pp. 4.2-58 – 4.2-59.)

- 12-R:** The commenter states that the Draft EIR does not address the potential for adjacent area exposure to Valley Fever. The commenter further states that Mitigation Measure 4.2-8 is inadequate, as it does not incorporate all of the California Department of Public Health’s recommendations for preventing exposure to Valley Fever. The comment is noted for the record. The Draft EIR does address potential impacts from Valley Fever on the adjacent population and provides for adequate mitigation to reduce those potential impacts to a less than significant level. (Draft EIR p. 4.2-57 – 4.2-58.)

As indicated in the Draft EIR, San Joaquin Valley Fever is one of the most studied and oldest known fungal infections. The Draft EIR provides a detailed discussion on the health risk to humans and factors affecting the susceptibility of the public. (Draft EIR pp. 4.2-23 – 4.2-25.) Contrary to the commenter’s assertion, the Draft EIR also addresses the potential for exposure to Valley Fever and provides for more mitigation than simply providing personnel with a brochure:

The project has the potential to generate fugitive dust and suspend Valley Fever spores with the dust that could then reach nearby sensitive receptors. It is possible that on-site workers could be exposed to Valley Fever as fugitive dust is generated during construction. The project would be required to comply with EKAPCD Rule 402, the project proponent will be required to submit a Fugitive Dust Control Plan to the EKAPCD and implement fugitive dust control measures, which would reduce fugitive dust impacts to less than significant for all phases of the project and would also control the potential release of the *Coccidioides immitis* fungus from construction activities. This requirement is included in Mitigation Measure MM 4.2-2; however, exposure to the *Coccidioides immitis* fungus would be potentially significant and Mitigation Measure MM 4.2-8 is provided to further

reduce impacts associated with Valley Fever and to protect on-site construction workers and nearby receptors. Therefore, the exposure to Valley Fever would be minimized and impacts would be reduced to less-than-significant levels with implementation of the mitigation measures identified above.

(Draft EIR p. 4.2-57.)

- 12-S:** The commenter requests clarification if the Draft EIR intentionally skipped a discussion on Impact 4.2-3. The comment is noted for the record.

As indicated in the Draft EIR, potential impact 4.2-3, concerning the potential for the project to expose sensitive receptors to substantial pollutant concentrations, is discussed at length. (Draft EIR pp. 4.2-49 – 4.2-58.) The Draft EIR concluded that with implementation of Mitigation Measures MM 4.2-8 through MM 4.2-10, impacts will remain less than significant. (Draft EIR p. 4.2-58.)

- 12-T:** The commenter requests that the Lead Agency prepare a health risk assessment of sensitive receptors that are representative of the Kern County population as respects existing rates of cardiac disease, obesity, baseline ozone pollution, and disadvantaged communities.

The Lead Agency notes that the Ganddini Group, Inc. prepared the Gem Hill Quarry Health Risk Assessment Analysis (2022) to evaluate the effects of toxic air contaminants (TACs), including diesel particulate matter (DPM) from vehicles and various substances found in fugitive dust emissions. The HRA prepared by Ganddini was prepared in accordance with Kern County's Guidelines for Preparing an Air Quality Assessment for Use in Environmental Impact Reports (2006) and the Office of Environmental Health Hazard Assessment's Risk Assessment Guidelines: Guidance Manual for Preparation of Health Risk Assessments (2015). The HRA specifically focused on sensitive receptors: the facilities that house or attract children, the elderly, people with illnesses, or others who are especially sensitive to the effects of air pollutants. As indicated in Draft EIR Tables 4.2-8 and 4.2-9, the project's potential carcinogenic risk and potential non-carcinogenic health risk is well below the applicable thresholds of significance. (Draft EIR, pp. 4.2-55 – 4.2-56.)

Although all emissions and both carcinogenic and non-carcinogenic health risks are below the applicable thresholds of significance, the Draft EIR nonetheless proposed Mitigation Measures 4.2-1, 4.2-2, 4.2-3, 4.2-4, 4.2-5, 4.2-6, 4.2-7, 4.2-8, 4.2-9, and 4.2-10 to ensure that human health risks, including risk of cancer in the general population and in infants, remain less-than-significant.

The Lead Agency further notes that CEQA does not require a lead agency to conduct every recommended test or perform all recommended research to evaluate a project's potential impacts. The fact that additional studies or models might be helpful does not mean they are required. (*Association of Irrigated Residents v. County of Madera* (2003) 107 Cal.App.4th 1383, 1396.)

- 12-U:** The commenter requests that the Lead Agency consider the cumulative impact of particulate matter (dust), ozone and fungus pollution exposure for the population. The comment is noted for the record.

As indicated in the Draft EIR, and discussed in Response to Comment 12-Q, the Draft EIR analyzed the project's cumulative impacts and determined that cumulative air quality impacts, which include particulate matter, ozone, and fungus pollution (i.e., Valley Fever) were less than significant because the project's individual impacts are well below the significance thresholds established by the EKAPCD and County and, therefore, are not cumulatively considerable. (Draft EIR pp. 4.2-58 – 4.2-59; see also Kern County CEQA Implementation Document, § 5.1 (June 2004); KCAPCD, *Guidelines for Implementation of the California Environmental Quality Act of 1970, As Amended.*)

- 12-V:** The commenter requests an additional habitat assessment on the grounds that it should be conducted per CDFW guidelines, include a March-April field investigation, and assessment of lands located outside of the project site. The comment is noted for the record. The Lead Agency notes that a complete and valid biological resource survey, following professional standards and of sufficient duration during the appropriate times of the year was conducted to catalogue potentially impacted species. (Draft EIR, Appendix D.1.)

The Lead Agency notes that ELMT Consulting prepared the Gem Hill Project Habitat Assessment and Desert Tortoise Presence/Absence Survey Report (2022a) to evaluate the condition of habitat and assess the probability of occurrence of special-status plant and wildlife species on the project site. As noted in ELMT's report, which is attached to the Draft EIR as Appendix D.1, ELMT biologists were onsite in both May and September for their evaluation, in order to ensure surveys were conducted when both plant and animal species/habitat were both evident and identifiable.

ELMT's report did not assess lands located outside of the project boundary because those lands will not be disturbed as part of the project. ELMT concluded, as indicated in Draft EIR Section 4.3.4, that the project Site is not occupied by any special-status species and, therefore, the project will not have any impact, either directly or through habitat modification, on any special-status species. The project will, however, occur incrementally over the proposed 30-year life of the project. Because of their migratory nature, certain species have a low potential to migrate onto the project site prior to commencement of project activities. Accordingly, the Draft EIR proposed Mitigation measure 4.3-1, 4.3-2, 4.3-3, 4.3-4, 4.3-5, 4.3-6, and 4.3-7 to ensure that impacts remain less-than-significant throughout the life of the project. (Draft EIR, pp. 4.3-23 – 4.3-27.)

As further indicated in Draft EIR Section 4.3.4, there are no sensitive natural communities identified in regional plans, policies, regulations, or by CDFW or USFWS located on the project site. No fish or hydrogeomorphic features with frequent sources of water that would provide suitable habitat for fish were observed, and it was determined that fish and amphibians are absent from the project site. (Draft EIR, pp. 4.3-28 – 4.3-30.)

12-W: The commenter requests that the Lead Agency consider requiring reclamation and preservation of the applicant's lands located outside of the project boundary. The comment is noted for the record.

The Lead Agency notes that the comment does not raise a significant environmental concern and need not be addressed in these responses to comments. (14 Cal. Code Regs., 15088(c).) Notwithstanding, the Lead Agency notes that SMARA's reclamation requirements only apply to "mined lands." (See Pub. Resources Code, §§ 2711(a), 2712(a).) "Mined lands" is defined as "the surface, subsurface, and ground water of an area in which surface mining operations will be, are being, or have been conducted, including private ways and roads appurtenant to any such area, land excavations, workings, mining waste, and areas in which structures, facilities, equipment, machines, tools, or other materials or property which result from, or are used in, surface mining operations are located." (Id. at § 2729.) Here, the applicant's lands located outside of the project boundary are not part of the project and will not meet the definition of "mined lands," therefore, the Lead Agency cannot require that they be reclaimed or preserved.

12-X: The commenter requests that the Lead Agency require the applicant to obtain a Streambed Alteration Agreement from CDFW for jurisdictional streambed impacts. The commenter also states that admitted potential impacts from habitat loss and to migratory birds requires CDFW's agreement. The comments are noted for the record.

With respect to the requirement for a Streambed Alteration Agreement, the Lead Agency notes that ELMT Consulting prepared the *Gem Hill Quarry Project Delineation of State and Federal Jurisdictional Waters* (2022b). As indicated in the Draft EIR, the project site contains approximately 0.79 acre (19,526 linear feet) of CDFW jurisdictional streambed. (Draft EIR p. 4.3-28.) These features will fall under the regulatory authority of the Lahontan RWQCB as waters of the State, and, potentially, CDFW as jurisdictional streambed. Although the project is not expected to result in significant impacts to fish or wildlife resources, the onsite drainage features exhibit characteristics consistent with CDFW's methodology and would be considered CDFW streambed (*Ibid.*) Of the features located onsite, the project, at full buildout, will impact approximately 0.28 acre (7,894 linear feet). (*Ibid.*) Accordingly, the Draft EIR states that impacts to these features would likely require both a Regional Water Quality Control Board Waste Discharge permit and Streambed Alteration Agreement pursuant to Fish and Game Code section 1602. (*Ibid.*; see also Draft EIR p. 4.3-3.) Table 3-8 in the Draft EIR also identifies these regulatory permits as "required plan[s] or approvals," if they are required by CDFW and/or the Regional Board. (Draft EIR p. 3-28.)

The Draft EIR also identifies the independent authorities and processes upon which the Regional Water Quality Control Board and CDFW may require the applicant to obtain a Waste Discharge permit and Streambed Alteration Agreement. As indicated in the Draft EIR:

Sections 1600 through 1616 [of the Fish and Game Code] require the project proponent to notify the CDFW prior to any project that would divert, obstruct, or change the natural flow, bed, channel, or bank of any river, stream, or lake. Pursuant to the CFGC, a "stream" is defined as a body of water that flows at least periodically, or intermittently, through a bed or channel having banks and

supporting fish or other aquatic life. Based on this definition, a watercourse with surface or subsurface flows that supports or has supported riparian vegetation is a stream and is subject to CDFW jurisdiction. Altered or artificial streams valuable to fish and wildlife are subject to CDFW jurisdiction. The CDFW also has jurisdiction over dry washes that carry water ephemerally during storm events. Consultation with the CDFW shall be conducted to determine if the two dry washes on the project site are jurisdictional to the CDFW and if they might require a Streambed Alteration Agreement (SAA). Preliminary notification and project review generally occur during the environmental process. When an existing fish or wildlife resource may be substantially adversely affected, the CDFW is required to propose reasonable project changes to protect the resource. These modifications are formalized in a SAA that becomes part of the plans, specifications, and bid documents for the project.

...

The California Porter-Cologne Water Quality Control Act gives the State very broad authority to regulate waters of the State, which are defined as any surface water or groundwater, including saline waters. The Porter-Cologne Act has become an important tool in the post SWANCC and Rapanos regulatory environment, with respect to the state's authority over isolated and insignificant waters. Generally, any person proposing to discharge waste into a water body that could affect its water quality must file a Report of Waste Discharge in the event that there is no Section 404/401 nexus. Although "waste" is partially defined as any waste substance associated with human habitation, the Regional Board also interprets this to include fill discharged into water bodies

(Draft EIR pp. 4.3-18 - 4.3-20.)

Finally, the Lead Agency notes that CDFW and the Regional Board, as responsible agencies under CEQA, have independent authority to analyze the impact of, and issue permits for, the proposed impacts to the onsite features. (*Santa Clara Valley Water Dist. v. Cal. Regional Water Quality Control Bd.* (2020) 59 Cal.App.5th 199.)

Thus, because the applicant is already required to notify CDFW and file a report with Regional Board before impacting onsite features, no mitigation measure requiring the same is required to mitigate for the potential loss of these features.

With respect to the comment concerning potential impacts from habitat loss and to migratory birds, as indicated in the Draft EIR, the Lead Agency has proposed Mitigation Measures 4.3-1 through 4.3-7. These mitigation measures require, among other things, notification to and consultation with CDFW and other wildlife agencies, if necessary, to ensure that the project does not have an adverse impact on migratory birds. (Draft EIR pp. 4.3-24 – 4.3-27.)

12-Y: The commenter states that the habitat assessment is deficient because it was conducted after the start of mining operations, during drought conditions, and was of insufficient duration and quality to make conclusions regarding the significance of project impacts. The comment is

noted for the record. The Lead Agency notes that a complete and valid biological resource survey, following professional standards and of sufficient duration during the appropriate times of the year was conducted to catalogue potentially impacted species. (See Draft EIR, Appendix D.1.)

As discussed in Response to Comments 12-C and 12-J, the applicant was issued a grading permit, Permit No. K2018-06271, for the commenter's referenced site disturbances. These activities were not surface mining operations as defined by County Code and state law. The commenter's assertion that the assessment was conducted after the start of mining operations is incorrect.

The fact that the biological assessment was prepared during drought conditions is irrelevant. The purpose of the biological assessment was to identify baseline project Site conditions to evaluate the condition of the habitat and assess probability of occurrence of special-status plant and wildlife species that could pose a constraint to project implementation. (Draft EIR, Appendix D.1.) Drought conditions are part of the existing baseline of the project site and thus the project site was properly assessed. (14 Cal. Code Regs., § 15125(a); *Communities for a Better Env't v. South Coast Air Quality Mgmt. Dist.* (2010) 48 Cal.4th 310, 320 [stating that existing physical conditions will normally constitute the baseline].)

The commenter also seems to suggest that the biological assessment should have followed protocol-level survey methodologies to determine the presence or absence of special status species. A lead agency, however, is not required to undertake a protocol-level survey when assessing whether a project will affect endangered, rare, or threatened species. A lead agency may employ other survey methodologies, such as reconnaissance-level surveys, so long as the choice of methodology is supported by substantial evidence. (*Gray v. County of Madera* (2008) 167 Cal.App.4th 1099, 1124; *Association of Irrigated Residents v. County of Madera* (2003) 107 Cal.App.4th 1383, 1396.) Here, the habitat assessment was based on a literature review and records search followed by reconnaissance-level field surveys that concluded that special-status plant and animal species are absent from the project site. Thus, no additional or more in-depth biological assessment is required.

Lastly, the Lead Agency notes that, with respect to desert tortoise, ELMT biologists did conduct a presence/absence survey in accordance with USFWS protocols. (Draft EIR p. 4.3-6.)

12-Z: The commenter expresses doubt that a five hour field investigation can cover 82 acres, and requests additional studies.

The Lead Agency notes that the commenter is referencing an archaeological survey from 1992 conducted on parcels adjacent to the project site, not the biological assessment prepared for the Draft EIR. As previously discussed, the ELMT conducted a complete and valid biological resource survey, following professional standards and of sufficient duration during the appropriate times to catalogue potentially impacted species, and the conclusions are supported by substantial evidence. (See Draft EIR, Appendix D.1.) The commenter provides no support justifying her comment.

12-AA: The commenter states that the biological assessment was only conducted on September 26, when most plant species would not be apparent or visible. This comment is inaccurate. As indicated in the Draft EIR, ELMT conducted two field surveys, on May 5 and September 26, 2019, to ensure surveys were conducted when both plant and animal species/habitat were both evident and identifiable. (Draft EIR, p. 4.3-6.)

12-AB: The commenter submitted photographs that the commenter claims show alkali mariposa lily and recurved larkspur located on the project site.

With respect to the photo of the alkali mariposa-lily, the Lead Agency notes that the commenter's own caption for the photograph states that the photograph is from a location northeast of Gem Hill and, therefore, outside of the project site. The submitted photograph is not substantial evidence that would contradict the conclusions of the ELMT biologists who surveyed the project site in May and September to catalogue potentially impacted species and determined alkali mariposa-lily was absent. (Draft EIR pp. 4.3-9, 4.3-13.)

With respect to the photo of the recurved larkspur, the Lead Agency notes that the commenter's own caption for the photograph states that the photo was taken from Gem Hill looking north. The Lead Agency notes, however, that the background shows wind turbines in the background to the north. Wind turbines are not visible to the north when located on the project site. Therefore, the photograph was clearly not taken on the project site, and lacks both credibility and is not substantial evidence that would contradict the conclusion of the ELMT biologists who surveyed the project site in May and September to catalogue potentially impacted species and determined recurved larkspur was absent. (Draft EIR pp. 4.3-9, 4.3-13.)

12-AC: The commenter expresses skepticism concerning the observations of ELMT's biologists. The commenter also states that the Cultural Resources Evaluation observed more animal shelters than the ELMT biologists. The comment is noted for the record.

With respect to the skepticism concerning ELMT's observations, the Lead Agency notes that the comment does not raise a significant environmental concern and need not be addressed in these responses to comments. (14 Cal. Code Regs., 15088(c).)

With respects to the Cultural Resources Evaluations findings, the Lead Agency notes that the archaeologist concluded that the observed cavities were "possibly" used by animals. This statement by an archaeologist concerning observation about a small cavity's possible use by animals is not substantial evidence that would contradict the findings of ELMT as professional biologists concerning the project site's habitat suitability and the presence or absence of special status species.

12-AD: The commenter claims that the project site contains western Joshua tree in contrast to the Draft EIR's conclusion.

The commenter provides photographs located outside of the project site showing western Joshua tree. These photographs were taken on the applicant's property that is not part of the proposed project. Nothing in these photos contradict the Draft EIR's conclusion that western Joshua tree is absent from the project site. (Draft EIR p. 4.3-31.)

- 12-AE:** The commenter requests that an additional biological assessment include adjacent undisturbed areas to characterize disturbed areas located on the project site. The comment is noted for the record.

As discussed in Response to Comment 12-Y, a complete and valid biological resource survey, following professional standards and of sufficient duration during the appropriate times of the year was conducted to catalogue potentially impacted species. (See Draft EIR, Appendix D.1.) The biological resource survey also accurately captured existing site conditions (i.e., baseline) as required by CEQA. (14 Cal. Code Regs., §§ 15125, 15126.2(a).) No additional biological assessment is required.

- 12-AF:** The commenter states that the Land Survey Map shown in Draft EIR Appendix L notes that three mine shaft openings were found and requests that mine shafts be evaluated and addressed. The comment is noted for the record.

As indicated in the Draft EIR, there are no known portals, shafts, tunnels, or openings on the project's mine site. (Draft EIR p. 3-21.) The referenced mine shafts are located outside of the project site. (See Appendix L.) Notwithstanding, as indicated in the Draft EIR, if such features are identified during project operations, "they would be either closed, gated and/or otherwise protected from public entry but preserved for bat and other wildlife with County consultation." (Draft EIR p. 3-21.)

- 12-AG:** The commenter states that she has found obvious artifacts on her property, which is adjacent to the project site. The comment is noted for the record.

The Lead Agency notes that the comment does not raise a significant environmental concern and need not be addressed in these responses to comments. (14 Cal. Code Regs., 15088(c).)

- 12-AH:** The commenter requests that unredacted Cultural Resource Investigation reports be released to the public and, if not, the impact determination for Impact 4.4-2 [pages 4.4-27 and 4.4-28 of the DEIR] should be changed to significant. The comment is noted for the record.

As discussed in Response to Comment 3-M, the Lead Agency notes that environmental documents, like the Draft EIR, must not include information about the location of an archeological site of sacred lands or any other information that is exempt from public disclosure under the California Public Records Act. (14 Cal. Code Regs., § 15120(d), see also *Clover Valley Foundation v. City of Rocklin* (2011) 197 Cal.App.4th 200, 220.) Native American graves, cemeteries, and sacred places and records of Native American places, features, and objects are also exempt from disclosure. (Pub. Resources Code, §§ 5097.9, 5097.993.) Confidential cultural resource inventories or reports generated for environmental documents are to be maintained by the lead agency under separate cover and shall not be available to the public. (See *Clover Valley Foundation*, at 221 (citing Governor's Office of Planning and Research, Cal. Tribal Consultation Guidelines (Nov. 14, 2005, supp. p. 27).)

The confidentiality of this report does not change the Draft EIR's determination of project significance on cultural or tribal cultural resources.

12-AI: The commenter states that the project is engaged in archaeological gerrymandering. The commenter misunderstands the purpose of the referenced report. To the contrary, a complete and thorough analysis of the project site through a series of cultural resource evaluations have been conducted. (Draft EIR pp. 4.4-6 – 4.4-9.)

The Lead Agency notes that McKenna prepared the report referenced by the commenter, *A Phase II Cultural Resources Investigation of the Cal-Portland Rosamond Hills (Gem Hill) Project Area in the Rosamond Area of Kern County, California* (2019), to further evaluate potential cultural resources observed during an earlier Phase I cultural resources survey. As indicated in the Draft EIR, the referenced Phase II survey focused on an area of the project Site for which a grading plan was under consideration. (Draft EIR p. 4.4-8.) Later, however, McKenna prepared the *Addendum Report: A Phase II Cultural Resources Investigation of the CalPortland Rosamond Hills (Gem Hill) Project Area in the Rosamond Area of Kern County* (2020) to cover approximately 190 acres of the project site, including the secondary access road alignment and the previously analyzed 30 acres, as well as the *Supplemental Report: Cultural Resource Investigations of Additional Acreage at The CalPortland Rosamond Hills (Gem Hill) Project Area in the Rosamond Area of Kern County, California* (2021) to cover an approximately 17-acre portion of the project site that had not been previously surveyed. (Draft EIR pp. 4.4-8 – 4.4-9.) Thus, as indicated in the Draft EIR, the cultural resources investigations provided Phase I and Phase II investigation of the project site in its entirety. (Draft EIR p. 4.4-9; see also Draft EIR, Figure 4.4-1, p. 4.4-7.)

12-AJ: The commenter requests that all previously discovered and newly discovered artifacts be delivered to the nearest accepting museum. The comment is noted for the record.

The Lead Agency notes that the comment does not raise a significant environmental concern and need not be addressed in these responses to comments. (14 Cal. Code Regs., 15088(c).) Notwithstanding, the Lead Agency notes that proposed Mitigation Measure 4.4-3 provides for the disposition of unanticipated cultural and tribal cultural resources discoveries during project operations. In summary, the applicant will consult with Native American representatives if unanticipated tribal resources are discovered, or with California State Lands Commission (CSLC) and Native American representatives should any resources be found on lands administered by CSLC. Any unanticipated archaeological materials will be presented for curation at an accredited facility, and the project's Lead Archaeologist will prepare a report documenting the evaluation and/or additional treatment of the resource. (Draft EIR pp. 4.4-26 – 4.4-27.)

12-AK: The commenter asks whether mitigation for greenhouse gas impacts is required when a project does not utilize electricity from a greenhouse gas emitting energy grid. The commenter also requests that the Lead Agency consider requiring solar power for onsite project uses. Finally, the commenter asks that the Lead Agency consider limiting nighttime operations to conserve energy and comply with the County's Dark Sky Ordinance. The comment is noted for the record.

Draft EIR Chapter 4.5 analyzed potential impacts related to the project's energy use. As indicated in the Draft EIR, the project would not require electrical or natural gas service or new utility connections; however, the project is expected to require the use of non-renewable

resources in the form of gasoline and diesel to power off-road construction equipment, on-road vehicles, water well pump, office trailer, and portable truck scale. (Draft EIR p. 4.5-8.) The Draft EIR determined that the project would not result in a potentially significant impact due to wasteful inefficient, or unnecessary energy consumption, nor would the project conflict with or obstruct a State or local plan for renewable energy. (Draft EIR pp. 4.5-9 -4.5-13.)

Further, as discussed in Draft EIR Chapter 4.7, which analyzed the project's potential greenhouse gas emissions and impacts, the project emissions would be well below the applicable thresholds of significance, and would not generate greenhouse gas emissions that would, directly or indirectly, have a significant impact on global warming or climate change. (Draft EIR pp. 4.7-24 – 4.7-25.) Further, the Draft EIR notes that utilization of the project as a source of natural pozzolan will reduce the carbon footprint (GHG) in concrete production by approximately 300,000 tons of CO₂e per year for the life of the project. This reduction, however, was not factored into the quantified analysis of greenhouse gas emissions, in order to ensure a conservative analysis. (Draft EIR p. 4.7-25.) Accordingly, the Lead Agency determined that no mitigation is required, including the need for solar power.

Lastly, with respect to the comment concerning nighttime operations, see Response to Comment 12-D.

12-AL: The commenter states that dust and airborne particles from the project will negatively impacts adjacent solar energy production, and will reduce ongoing greenhouse gas reduction efforts. The comment is noted for the record.

The Draft EIR analyzed potential impacts related to dust and air quality and determined these impacts would be mitigated to a less than significant level. (Draft EIR, pp. 4.2-38 – 4.2-59.) The Draft EIR concludes that compliance with Mitigation Measure 4.2-1 through 4.2-5, including compliance with Rule 402 of the EKAPCD's rules and regulations relating to fugitive dust, will ensure that impacts related to dust will be less-than-significant. These rules require, among other things, that:

1. A person shall not cause or allow emissions of fugitive dust from any active operation to remain visible in the atmosphere beyond the property line of the emission source, excluding unpaved roadways;
2. A person shall utilize one or more Reasonably Available Control Measures to minimize fugitive dust emissions from each source type that is part of any active operation, including unpaved roadways;
3. A person shall not cause or allow downwind PM₁₀ ambient concentrations to increase more than 50 µg/m³ above downwind concentrations as determined by simultaneous upwind and downwind sampling utilizing high-volume particulate matter samplers or other USEPA-approved equivalent method(s);
4. No person shall conduct a large operation without either: (1) conducting onsite PM₁₀ air quality monitoring and associated recordkeeping; or (2) filing for and obtaining an approved fugitive dust emission control plan; and

5. an owner or operator of a Large Operation will be required to submit a Fugitive Dust Control Plan to the EKAPCD prior to the start of any earthmoving activity. The project shall not commence until the EKAPCD has approved or conditionally approved the plan.

(Draft EIR pp. 4.2-32 – 4.2-33.)

The commenter provides no evidence to contradict these conclusions.

12-AM: The commenter requests that the Lead Agency consider reevaluation of carbon offsets claimed by the project. The comment is noted for the record.

In contrast to the commenter's statement, as indicated in the Draft EIR, the greenhouse gas emissions analysis did not take credit for carbon offsets when analyzing the project's potential impacts against the applicable thresholds of significance. The Lead Agency notes that Lilburn Corporation prepared an *Air Quality and Greenhouse Gas Assessment for Gem Hill Quarry, Kern County, California (2022a)* to assess the project's greenhouse gas impacts. Draft EIR Section 4.7 discusses and analyzes the project's greenhouse gas emissions. As indicated in Draft EIR Section 4.7.4:

The proposed project would generate GHG emissions from on-site operation of the following vehicles/equipment: front-end loader, dozer, excavator, grader, drill rig, haul trucks to transport overburden to stockpiles (the same haul trucks as referenced below which would transport mined material to off-site destinations), water truck, and tractor skid steer, ancillary equipment (maintenance vehicles, small loader, backhoe, light trucks, etc.), and two generators of up to 50 horsepower each to produce power for the water well pump and scale/office trailer. Additionally, operations would involve service vehicles, employee vehicles, and the use of 10 on-road haul trucks for transporting mined material off-site destinations. The proposed project would also generate GHG emissions from operation of the following vehicles, which would generate average daily trips (ADT) as follows: 10 on-road haul trucks (134 ADT), 10 employee vehicles (20 ADT), various service/maintenance/miscellaneous vehicles (generating a total of 3.41 ADT). Not all GHGs exhibit the same ability to induce climate change; therefore, GHG contributions are commonly quantified in CO₂e. The Air Quality and Greenhouse Gas Assessment for Gem Hill Quarry, Kern County, California (Lilburn 2022a) used CARB Carl Moyer Program Guidelines (2017 Revisions) and EMFAC2017 On-Road Heavy Duty Diesel Truck and On-Road Passenger Vehicles emissions factors for on-site and off-site, respectively, to estimate GHG emissions associated with operation of the proposed project. Table 4.7-3, Daily and Annual Project GHG Emissions, presents anticipated daily (pounds per day) and annual (metric tons per year) emissions of GHGs (carbon dioxide [CO₂] and methane [CH₄]) from project operations. As shown in the table, annual operational GHG emissions are approximately 2,673 MTCO₂e during the first operational year including initial site preparation and a full year of operations, then approximately 2,550 MTCO₂e per year during the remainder of the 30-year life of operations. Remaining reclamation activities (those not undertaken within the 30-

year life of operations) are anticipated to occur within a one-year period after the completion of mining, requiring an estimated 80 days of grading and earthmoving similar to mining operations except no off-site material hauling is proposed, resulting in an estimated 320 MTCO_{2e} associated with reclamation activities. During each scenario, annual GHG emissions would be well below the EKAPCD significance threshold of 25,000 metric tons of MTCO_{2e} per year.

(Draft EIR p. 4.7-24.)

The Draft EIR does note, however, that the project will ultimately result in greenhouse gas emission reductions based on the applicant's use of the mined material in cement production. (Draft EIR p. 4.7-25.)

12-AN: The commenter states that project bulldozing and blasting will release carbon from previously undisturbed carbon sinks. The comment is noted for the record.

The commenter cites to a website article from a public policy coordinator that suggests desert lands may hold stores of carbon underground. The website article has limited citations, and has not been peer reviewed. By contrast, the Lead Agency is aware of one scientific article from Nature Geoscience on the topic. In that article, researchers argued that extensive sequestration of dissolved inorganic carbon can occur in the terminal lakes of endorheic basins—basins that do not drain to external bodies of water. The researchers presented isotopic, radiocarbon, and chemical analysis of groundwater, river water, and sediments from the terminal region of the endorheic Shiyang River drainage basins, in an arid region of northwest China. The researchers readily note that “controversy still exists relation to the mechanism of the carbon balance, and the actual magnitude of terrestrial sinks in arid and semi-arid areas remains uncertain.” (Yu Li, et al. Substantial inorganic carbon sink in closed drainage basins globally, NATURE GEOSCIENCE, Vol 10, p. 501 (July 2017).) Thus, the Lead Agency is aware of no research or data that can explain how much carbon is contained in the average cubic meter of desert material. Thus, it is not feasible, at this time, to analyze the result of greenhouse gas emissions from disturbance in arid and semi-arid areas, when such data is uncertain, and the science is newly developing.

Moreover, the project site is unique in that, rather than organic material making up much of the desert land, the project seeks to mine volcanic tuff that, through natural processes, have already calcined, thus shedding carbon emissions.

The Lead Agency notes that Lilburn Corporation prepared an Air Quality and Greenhouse Gas Assessment for Gem Hill Quarry, Kern County, California (2022a) to assess the project's greenhouse gas impacts. Draft EIR Section 4.7 discusses and analyzes the project's greenhouse gas emissions. As indicated in Draft EIR Section 4.7.4, the project will generate an estimated 320 MTCO_{2e} on an annual basis. This is significantly below the EKAPCD and Lead Agency's significance threshold of 25,000 MTCO_{2e} annually. (Draft EIR, p. 4.7-24.)

Further, the proposed project will actually serve as a carbon reduction operation, although reductions were conservatively not factored into the quantified analysis. (See Draft EIR, Tbl. 4.7-3.)

In summary, even if the project were to disturb stored carbon, which the commenter presents no specific evidence of, the project would have to disturb more than 24,000 MTCO₂e annually to result in a potentially significant impact. There is no evidence that the project could or would disturb such quantities of stored carbon, given the uncertainties in the scientific research referenced above. Accordingly, the project's greenhouse gas emissions are less than significant, and no mitigation is required. (Draft EIR, p. 2.7-26.)

12-AO: The commenter states that that the applicant should only claim credit for mining pozzolan if the applicant also accepts responsibility for burning coal in California.

The Lead Agency notes that the comment does not raise a significant environmental concern and need not be addressed in these responses to comments. (14 Cal. Code Regs., 15088(c).) Rather, this appears to be a policy argument. Notwithstanding, the Lead Agency notes that the Draft EIR conservatively does not factor the project's carbon reduction into the quantified analysis. (See Draft EIR, Tbl. 4.7-3.) See Response to Comments 12-AM and 12-AN.

12-AP: The commenter states that using pozzolan as a clinker substitute has a negative abatement cost and does not actually produce a net reduction in carbon emissions. The comment is noted for the record.

As discussed in Response to Comment 12-AO, the Draft EIR conservatively does not factor the project's carbon reduction into the quantified analysis. (See Draft EIR, Tbl. 4.7-3.) Thus, the project's greenhouse gas emissions are analyzed against thresholds of significance without offset, and still result in a less than significant impact. (Draft EIR p. 4.7-24 – 4.7-25.)

12-AQ: The commenter states that Table 4.7-3 does not include the diesel generators required to power the onsite trailer, wells, HVAC, and lighting. The commenter also states that construction activities do not appear to be accounted for in the table. The commenter also requests that the Lead Agency consider adopting a different thresholds of significance that correspondence with site preparation/construction activities. Further, the commenter requests that the Lead Agency consider that project disturbances will release ancient carbon stores back into the atmosphere.

With respect to the comment concerning the diesel generators, the Lead Agency notes that Draft EIR Table 4.7-3 included the daily and annual projected greenhouse gas emissions from generator sets, which includes the emissions from the estimated two generators needed to power the water well pump and scale/office trailer. (Draft EIR pp. 4.7-24, 4.7-25 [Table 4.7-3].)

With respect to the comment concerning construction activities, the Lead Agency notes that Draft EIR Table 4.7-3 includes the Year 1 CO₂e emissions and year 1 site preparation emissions, which include site preparation (referred to as "construction activities"). (Draft EIR p. 4.7-25.)

With respect to the comment concerning the thresholds of significance, The Lead Agency notes that the comment does not raise a significant environmental concern and need not be addressed in these responses to comments. (14 Cal. Code Regs., 15088(c).)

With respect to the comment about ancient carbon stores, as discussed in Response to Comment 12-AN, and as indicated in Draft EIR Section 4.7.4, the project will generate an estimated 320 MTCO₂e on an annual basis. This is significantly below the EKAPCD and Lead Agency's significance threshold of 25,000 MTCO₂e annually. (Draft EIR, p. 4.7-24.) Further, the proposed project will actually serve as a carbon reduction operation, although this reduction was not factored into the emissions analysis. (See Draft EIR, Tbl. 4.7-3.) Even if the project were to disturb stored carbon, which the commenter presents no specific evidence of, the project would have to disturb more than 24,000 MTCO₂e annually to result in a potentially significant impact. There is no evidence that the project could or would disturb such quantities of stored carbon. Accordingly, the project's greenhouse gas emissions are less than significant, and no mitigation is required. (Draft EIR, p. 2.7-26.)

12-AR: The commenter asks whether the applicant will be responsible for property damage from the project's daily blasting, and what is the claims process to report and resolve damage. The comment is noted for the record.

The Lead Agency notes that Urban Crossroads prepared the *Gem Hill Quarry Noise and Vibration Impact Analysis, Kern County (2022)* to assess, among other things, project impacts related to vibration at certain receptor locations. Draft EIR Section 4.12 discusses and analyzes the project's potential vibration impacts. As indicated in the Draft EIR, the County selected a maximum acceptable peak-particle-velocity (PPV) vibration threshold of 0.3 inches per second (in/sec), based on *Caltrans Transportation and Construction Vibration Guidance Manual (2020)* because most of the buildings located closest to the project site are older residential structures. (Draft EIR p. 4.12-19.)

Draft EIR Table 4.12-11 shows the project's blasting vibration levels at the closest receptor locations, including the commenter's house. As shown in the table, project blasting levels are expected to range from 0.00 to 0.04 PPV (in/sec) and would be below the 0.3 PPV (in/sec) threshold at all the nearby residential receptor locations. Accordingly, the Draft EIR concluded that impacts associated with blasting vibration are less than significant. (Draft EIR p. 4.12-19.) In other words, blasting at the project site will not result in damage to nearby residential structures.

The Lead Agency also notes that Mitigation Measure 4.8-2 requires the operator to prepare and maintain a Hazardous Materials Business Plan which will include, among other requirements, public notification procedures for spills and other emergencies. (Draft EIR pp. 4.8-19 – 4.8-20.)

12-AS: The commenter asks about the cumulative hazard of blasting vibration and land subsidence on the Project Site and neighboring residential properties. The comment is noted for the record.

The Lead Agency notes that the project site is underlain by a sequence of Tertiary age volcanic bedrock units mantled locally by a thin veneer of surficial sediments derived from local slopes. The volcanic bedrock is indurated and is not susceptible to compaction or settlement of soft layers. The site is elevated relative to the regional groundwater basin. On site wells access locally sourced water contained within bedrock fractures. Mining activities, including water

production, are not expected to affect groundwater basins beyond the bedrock formation that underlies the site. (See Draft EIR p. 4.6-7 – 4.6-10.)

As indicated in the Draft EIR, the vibration levels associated with the operation of the Project will be consistent with the established standards and thresholds of significance. (Draft EIR p. 4.12-20.)

Based on the lack of risk of subsidence and the fact that vibration levels will be within established thresholds of significance, the cumulative hazard of land subsidence and blasting vibration is less than significant.

12-AT: The commenter asks how project blasting materials will be managed, and states that the reclamation plan incorrectly states that no blasting will be conducted within 1,000 feet of any residence. The comment is noted for the record.

With respect to handling of blasting materials, Draft EIR section 3.4.2 describes how such blasting materials will be managed:

The transporting, handling, storage, and use of explosive materials, blasting agents, and blasting equipment would be supervised by a qualified and licensed blasting contractor. The blasting contractor and the explosive delivery company would be properly trained and licensed in accordance with all Federal, State, and local regulations and would provide evidence of compliance with the California blasting license program, U.S. Department of Transportation hazardous materials (HAZMAT) Certificate of Registration, California HAZMAT Transportation License, and general liability insurance for explosive transportation. All blasting materials would be brought on-site by a licensed blasting contractor for each blast, and there would be no storage of blasting agents at the project site.

(Draft EIR p. 3-18.)

The Lead Agency also notes that Mitigation Measure 4.8-3 requires that all transport, handling, storage, and use of explosive materials, blasting agents, and blasting equipment shall be directed and supervised by a qualified blasting personnel, among other requirements. (Draft EIR p. 4.8-20.)

With respect to the distance between the project blasting area and the closest residence, The Lead Agency notes that the reclamation plan states the following:

A blast design is required if conducted within 1,000 feet of any building used as a dwelling, public building, school, church, or community or institutional building outside the permit area. No such dwellings or residents exist within 1,000 feet to blasting operations. Nonetheless, as discussed below, a blasting plan will be prepared for the project.

(Surface Mining Reclamation Plan p. 22 [Draft EIR Appendix B].)

The reclamation plan was measuring the distance from the project's actual blast location to the nearest residences, which is at least 1,000 feet. The Draft EIR, on the other hand, conservatively measured vibration impacts on the assumption that blasting was occurring at the project boundary. Under this conservative assumption, the nearest residence is located 858 feet away from project blasting. (Draft EIR pp. 4.12-8 [Figure 4.12-1 – Sensitive Receptor's Map], 4.12-19 [Table 4.12-11 - showing Receptor 6 located at a distance of 858 feet].)

- 12-AU:** The commenter states that frequent heavy trucking to support the quarry and mining operation has significantly degraded Mojave Tropico Road and cause unsafe conditions.

As a preliminary matter, the Lead Agency notes that, as previously discussed, mining has not occurred on the project site. The existing, baseline condition of Mojave Tropico Road is not a result of the project, which has not commenced, and cannot commence absent Lead Agency approval.

With respect to the comment that the project has, or will, cause unsafe conditions, the Draft EIR notes that Caltrans regulations will apply to the transportation and traffic impacts of the project, including regulations pertaining to licensing, size, weight, and load of vehicles operated on the highway, and the need to obtain permits for any roadway encroachments. (Draft EIR p. 4.14-5.)

Further, the Draft EIR analyzed whether the project would substantially increase hazards due to any design feature. As indicated in the Draft EIR:

[T]he applicant is required to obtain encroachment permits from Kern County for development and use of the project's primary and secondary access road intersections with Mojave-Tropico Road. After obtaining such encroachment permits and constructing any road improvements required thereby, the project would not contribute to an increase in hazards due to a design feature and therefore will not have a significant impact. Therefore, this impact would be less than significant with mitigation.

(Draft EIR p. 4.14-14.)

Accordingly, any hazards on Mojave Tropico Road resulting from the project will be less than significant with mitigation incorporated. (See also, Response to Comments 12-BU and 12-BX.)

- 12-AV:** The commenter states that the water supply assessment scopes water use for 10 and 20 year periods, but the project proposes a 30 year term. The commenter also states that the water supply assessment excludes information about adjacent residential wells, which is readily available online. The comment is noted for the record.

As discussed in Response to Comment 3-I, the Lead Agency notes that SESPE Consulting, Inc. prepared the Water Supply Assessment Gem Hill Project (2020) and Technical Memorandum in Support of the Gem Hill Water Supply Assessment (2022). As indicated in the Draft EIR, the estimated volume and yield of the groundwater within the project's source aquifer was evaluated to assess the available supply of groundwater for the project. More specifically, as

analyzed in Draft EIR Section 4.9.4, the water supply assessment analyzed water use and availability over the 30-year life of the project, contrary to the commenter's statement:

The total estimated storage capacity of the local aquifer is 1,315 acre-feet volumetrically. **Over the life of the project**, the total water demand is approximately 540 acre-feet. With the conservative premise that no replenishment of the local basalt aquifer occurs, the project's estimated demand is 41 percent of the total aquifer capacity. Accordingly, there is sufficient water supply over the duration of the project (Sespe 2020, 2022). The *Water Supply Assessment Gem Hill Project* (Sespe 2020) and *Technical Memorandum in Support of the Gem Hill Water Supply Assessment* (Sespe 2022) demonstrate that the total projected water supply for normal, single-dry, and multiple-dry water years is sufficient to meet the project water demand, and evaluate the potential for the project to adversely affect neighboring wells or to conflict with or obstruct implementation of a water quality control plan or sustainable groundwater management plan.

(Draft EIR p. 4.9-19 [emphasis added].)

As further indicated in Draft EIR Section 4.9.4, the water supply assessment also assessed whether the project would impact the pumping of groundwater from nearby wells, using the best information that is publicly available:

[P]ublicly available well records were reviewed by Sespe (2020) and the locations of the wells were evaluated in relation to the proposed water supply well location. The nearest groundwater supply wells identified with publicly available information occur at distances of about 3,000 feet from the proposed project well location. These two groundwater supply wells draw water from entirely different hydrogeologic units than the constrained basalt aquifer. With groundwater sourced from these different units and the nominal pumping rate planned for the proposed water supply well, neither short- or long-term pumping of groundwater is anticipated to create any impact to these nearby wells. There is also a residence along Mojave-Tropico Road approximately 1,800 feet to the east of the proposed project well. No documentation was found indicating whether there is a water supply well at this location. Notwithstanding the lack of available water supply well data, given the presence of faulting in the vicinity of the project site, Sespe (2020) concluded that any well at this residence would be expected to withdraw water from an entirely different hydrogeologic unit than the constrained basalt aquifer. Furthermore, Sespe concluded that, even if located in the same aquifer, the average annual residential consumption of water (approximately 0.41 acre-feet per year) combined with the project's anticipated water use would result in a total estimated demand over the life of the project of approximately 42 percent of the aquifer capacity and, therefore, the project would have no significant impact on the neighboring water use (Sespe 2020).

(Draft EIR p. 4.9-19.)

Note that SESPE, in preparing the water supply assessment, reviewed the publicly available well records in the Sustainable Groundwater Management Act (SGMA) database, California Statewide Groundwater Elevation Monitoring (CASGEM) program, and well as in Groundwater Ambient Monitoring and Assessment Program (GAMA) database.

- 12-AW:** The commenter states that the water supply assessment appears contradictory concerning aquifer connectivity, and that if connected, the project would have a significant impact on neighboring wells. The comment is noted for the record.

As indicated in the Draft EIR, while the project site's basalt aquifer is distinct from the Fremont Valley Groundwater Basin (FVGB) located immediately to the north, some inflow from the FVGB is expected to occur, because even distinct aquifers can have some level of hydrogeologic connectivity. (Draft EIR p. 4.9-5.) Notwithstanding, as discussed in Response to Comment 12-AV, the Draft EIR conservatively analyzed the project's water consumption as if nearby residential wells were located within the same aquifer, and still concluded that the project will have no impact on neighboring water use. (Draft EIR p. 4.9-19.)

- 12-AX:** The commenter asks about the project's impact on the water table. The comment is noted for the record.

Groundwater underneath the site occurs within a basalt aquifer, which is overlain by tuffaceous units and cross-cut by east-west, northwest, and north-east trending fault segments. During periods of pumping of the aquifer, localized drawdown of the water table would occur, followed by recovery during non-pumping periods. The lithologic description provided from the Project's drilling program indicates the basalt is vesicular with some fractures. Secondary mineralization was noted as having filled some of the vesicles. Based on these characteristics, groundwater flow would be influenced principally by the extent of interconnectivity between vesicles and the geometry of the rock fractures. Given these hydraulic characteristics, groundwater flow can be expected to be localized, and therefore spatially limited. Consequently, the water table would lower in the immediate vicinity of the planned supply well location, and then rise back to a static equilibrium condition when the pump is turned off. In addition, given that the basalt aquifer is constrained by faulting, the planned pumping rate is not expected to result in significant water table fluctuations that could extend to adjoining aquifers.

- 12-AY:** The commenter notes that she requested and received her well report from the state, and such information is readily available online. The commenter also states such information should have been included in the Draft EIR's analysis.

See Response to Comment 12-AV.

- 12-AZ:** The commenter states that 41% aquifer depletion is an irresponsible waste of water. The comment is noted for the record.

The Lead Agency notes that the comment does not raise a significant environmental concern and need not be addressed in these responses to comments. (14 Cal. Code Regs., 15088(c).)

12-BA: The commenter asks whether land subsidence is at risk as a result of water use when combined with blasting and vibration. The commenter also requests that the Lead Agency consider a groundwater monitoring and management plan. The comment is noted for the record.

The Lead Agency notes that Terracon prepared the *Slope Stability Evaluation Report, Proposed Gem Hill Pozzolan Quarry – North Pit* (2022), which, among other things, analyzed the project’s potential for subsidence and liquefaction. Draft EIR Section 4.6 discusses and analyzes the project’s potential impacts on geology and soils, including subsidence and liquefaction. (Draft EIR p. 4.6-6 – 4.6-7.)

With respect to the comment about land subsidence, the Lead Agency notes that the Kern County CEQA Implementation Document identifies states that project would have a significant adverse impact on geology and soils if it is located “on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction, or collapse.” (Draft EIR p. 4.6-19.) The Draft EIR analyzed the project’s impacts on this point as follows:

Seismically induced liquefaction occurs when loose, water-saturated sediments of relatively low density are subjected to cyclic shaking that causes soils to lose strength or stiffness because of increased pore water pressure. Liquefaction generally occurs when the depth to groundwater is less than 50 feet. Groundwater measurements at the site indicate depth to groundwater beneath the site ranging from about 200 feet bgs to 660 feet bgs and all occurring within basalt or volcanic tuff. All of the borehole measurements indicated water at elevations below the planned pit bottom elevation at 2,450 feet amsl (Terracon 2022). Based on the depth to groundwater and the geologic conditions within which groundwater is present, the potential for liquefaction at the surface is low. Furthermore, the project is not located within a current, mapped California Liquefaction Hazard Zone. The project would be required by State law to be constructed in accordance with all applicable IBC and CBC earthquake construction standards, including those relating to soil characteristics. Building code requirements may include, but are not limited to, ground stabilization, selection of appropriate foundation type and depths, selection of appropriate structural systems to accommodate anticipated displacements, or any combination of these measures. Adherence to all applicable regulations would avoid any potential impacts to structures resulting from liquefaction at the project. Therefore, impacts would be less than significant.

(Draft EIR p. 4.6-24.)

With respect to the comment about requiring a groundwater monitoring and management plan, the Lead Agency notes that the comment does not raise a significant environmental concern and need not be addressed in these responses to comments. (14 Cal. Code Regs., 15088(c).) Notwithstanding, the Draft EIR considered the project’s potential impacts to groundwater and determined impacts would be less than significant with mitigation incorporated. (Draft EIR pp. 4.9-16 – 4.9-26.)

- 12-BB:** The commenter states that the Draft EIR identifies six mining operations that are permitted within six miles of the project site and asks about the threshold of significance for cumulative hydrologic impacts, and whether there is a cumulative impact on the combined water usage. The comment is noted for the record.

With respect to the comment about cumulative water use impacts, the Draft EIR notes that the cumulative area is the local groundwater basin. As indicated in the Draft EIR, the project site is located in a constrained basalt aquifer, as the basalt and overlying tuffaceous rocks are crosscut by faults. (Draft EIR p. 4.9-19.) Because this aquifer is constrained by localized faulting, the influence of groundwater pumping is expected to be limited by these structural boundaries. Thus, the project site is not located in the same groundwater basin as the six nearby mining operations and, therefore, there will be no cumulative impact on water use and or recharge. (See Draft EIR pp. 4.9-18 – 4.9-20, 4.9-26.)

- 12-BC:** The commenter states that her neighbor's well has dropped over 100 feet in the past 40-years and asks how much further they are going to drop. The commenter's neighbor also states that the applicant has drilled a total of 6 new wells over the past year, and wants to know the impact of the applicant's new wells. The comment is noted for the record.

As discussed in Response to Comment 12-AV, the Lead Agency notes that adjacent or nearby residential groundwater wells would draw water from an entirely different aquifer. The Draft EIR, however, conservatively concluded that even if the closest residence had a groundwater well in the same aquifer, the combined anticipated water use would result in a total estimated demand over the life of the project of approximately 42 percent of the aquifer capacity and, therefore, the project would have no significant impact on the neighboring water use. (Draft EIR p. 4.9-19.)

The Lead Agency further notes that the applicant has not drilled any water wells on the project site within the last year and, even if they had, the project's water use will be as it was analyzed in the Draft EIR. As discussed above, the project will not have a significant impact on groundwater supplies or recharge. (Draft EIR pp. 4.9-18 – 4.9-20.)

- 12-BD:** The commenter states that the Draft EIR does not mention a zoning conflict between the project and surrounding residential uses. The commenter also states that the project site is located in a disadvantaged community disproportionately affected by pollution causing negative public health effects. The commenter also states that mining can lead to a high risk for exposure and transport of Valley Fever spores, which can lead to cumulative impacts because of other local mining operation. The comment is noted for the record.

With respect to the comment concerning a potential zoning conflict, the Lead Agency notes that the Draft EIR did address land use conflicts and concluded that the project would not cause a significant environmental impact due to a conflict with any land use plan, policy, or regulation. (Draft EIR, pp. 4.10-17 – 4.10-18.)

Draft EIR Section 4.10 assesses the project's potential impacts on land use. Draft EIR Table 4.10-1, Figure 4.10-1, and Figure 4.10-2 provide the project site's existing general plan

designations and zoning classifications, as well as general plan designation and zoning classifications of the surrounding properties. (Draft EIR, pp. 4.10-2 – 4.10-6.)

Draft EIR Section 4.10.4 discusses the project's potential impacts concerning the conflict with any land use plan, policy, or regulation. As identified in the Draft EIR, the project, including implementation of the proposed mitigation measures, would not conflict with the Kern County General Plan or the Kern County Zoning Ordinance, which allow surface mining operations in the Project's A (Exclusive Agriculture) Zone Classification. Accordingly, the Draft EIR concluded that the project's impacts related to land use conflicts will be less than significant. (Draft EIR, p. 4.10-17.)

With respect to the comment concerning the project site being located in a disadvantaged community, the Lead Agency notes that the project site is not located in either an SB 535 disadvantaged community, or an AB 617 disadvantaged community.

With respect to the comment concerning the project's potential impacts related to Valley Fever, as discussed in Response to Comment 12-R, the Draft EIR does analyze potential impacts from Valley Fever on the adjacent population and provides for adequate mitigation to reduce those potential impacts to a less than significant level. (Draft EIR p. 4.2-57 – 4.2-58.)

The EKAPCD and County do not provide quantitative thresholds of significance for potential Valley Fever impacts, either at a project level or cumulatively. Because the project impacts will be mitigated to a less-than-significant level, however, the Lead Agency has determined there will not be any cumulative impact related to Valley Fever.

- 12-BE:** The commenter states that the *Gem Hill Quarry Noise and Vibration Impact Analysis Kern County* (Urban Crossroads 2022) disregards many noise contributions and presents projected noise levels near the County's CNEL exterior noise and air blast thresholds of significance. The commenter asks that the Lead Agency consider additional evaluation of ambient noise levels at receptor locations for peak and off-peak traffic conditions controlled for environmental conditions, and to consider noise contributions excluded from project contribution predictions. The comment is noted for the record. Draft EIR section 4.12.4 considered and analyzed potential impacts related to project-related noise and determined that these impacts would be mitigated to a less than significant level. (Draft EIR, pp. 4.12-11 – 4.12-21.)

With respect to the comment concerning the alleged inadequacies in the *Gem Hill Quarry Noise and Vibration Impact Analysis Kern County* (Urban Crossroads 2022), the commenter fails to identify, with specificity, what noise contributions are alleged to have been disregarded. The Lead Agency cannot therefore, meaningfully respond to this comment other than to say that Urban Crossroads completed a complete and valid noise study, peer reviewed by the Lead agency, that was sufficient to analyze the project's potential noise and vibration impacts. (Draft EIR, Appendix D.1.)

With respect to the comment concerning projected noise levels near thresholds, the Lead Agency notes that, as indicated in the Draft EIR, that all project noise levels will be less than

the applicable thresholds of significance with mitigation incorporated. (Draft EIR p. 4.12-13 – 4.12-18.)

With respect to the comment concerning a request for ambient noise levels with peak and off-peak traffic conditions. The Lead Agency interprets this comment as a request to analyze the project truck noise at receptors during both peak and off-peak traffic conditions, given that ambient noise, as used in Urban Crossroads report, means the existing, baseline noise levels. As a preliminary matter, the Lead Agency notes that CEQA does not require a lead agency to conduct every recommended test or perform all recommended research to evaluate a project's potential impacts. The fact that additional studies or models might be helpful does not mean they are required. (*Association of Irrigated Residents v. County of Madera* (2003) 107 Cal.App.4th 1383, 1396.)

Notwithstanding, as indicated in the Draft EIR, the Lead Agency notes that the County's thresholds of significance are based on Community Noise Equivalent Level (CNEL). CNEL is the energy average of the A-weighted sound levels occurring during a 24-hour period, with 5 dB added to the A-weighted sound levels occurring between 7:00 p.m. and 10:00 p.m. and 10 dB added to the A-weighted sound levels occurring between 10:00 p.m. and 7:00 a.m. (Draft EIR 4.12-2.) Thus, the Draft EIR's noise analysis is already based on a 24 hour average that weighs sound levels based on the time of day. Moreover, per Draft EIR Tables 4.12-9 and 4.12-10, the project's off-site haul route traffic noise and off-site haul route traffic noise increases were both analyzed and were determined to be lower than the applicable thresholds of significance. (Draft EIR 4.12-16 – 4.12-17.)

Finally, with respect to the comment concerning noise contributions excluded from project contribution predictions, the Lead Agency notes that the commenter fails to identify which noise contributions were excluded and, therefore, the Lead Agency cannot address this claim. As previously stated, Urban Crossroads completed a complete and valid noise study, peer reviewed by the Lead agency, that was sufficient to analyze the project's potential noise and vibration impacts. (Draft EIR, Appendix D.1.)

12-BF: The commenter states that noise level measurements were taken on her property without permissions, constituting a trespass on her property. The comment is noted for the record.

The Lead Agency notes that the comment does not raise a significant environmental concern and need not be addressed in these responses to comments. (14 Cal. Code Regs., 15088(c).) Notwithstanding, the Lead Agency notes that the Draft EIR does not authorize the project proponent to trespass on the private property of others.

The preparer of the Noise and Vibration Impact Analysis (Appendix J of the DEIR) has apprised the Lead Agency that Noise level measurements are collected at locations within the public right of way. However, noise receivers are commonly identified on private property to calculate the Project related noise levels at the building façade or outdoor living areas of noise sensitive residences.

- 12-BG:** The commenter expresses doubt about the conclusions of the noise report, and states that the referenced spreadsheet shows both “min” and “max” noise levels occurring at 3:00 p.m. and 10:00 p.m., which is not typical. The comment is noted for the record.

The Lead Agency notes that the referenced spreadsheet shows a 24-Hour Noise Level Measurement Summary from receptor location 6. The chart shows raw noise data, including Lmax and Lmin data. Lmax is the highest sound level measured during a single noise event. Lmin is the lowest time-weighted sound level measure by the meter over a given period of time, based on the time weighted sound level in dB. Thus, every hour in the 24-Hour Noise Level measurement has a “min” and “max” noise level reading. Further, the commenter’s statement that she does not have confidence in the data and the conclusions drawn therefrom is not substantial evidence that would contradict the conclusions of the *Gem Hill Quarry Noise and Vibration Impact Analysis Kern County (Urban Crossroads 2022)*.

- 12-BH:** The commenter states that a traffic study should be completed because the project will exceed 50 peak hour AM and PM trips pursuant to County of Kern Division 9 Standards for Traffic Engineering, 902-1.02. The comment is noted for the record.

The Lead Agency notes that *Urban Crossroads prepared Gem Hill Quarry Trip Generation Assessment (Revised (2021))* to assess the project’s potential transportation impacts. As indicated in Draft EIR Section 3.4.7:

Trip generation from the proposed project would consist of arrivals and departures of vehicles transporting employees, fuel and maintenance trucks, contractor vehicles servicing portable toilets, waste collection, and haul trucks that pick up and transport mined material to offsite locations. As shown in Table 3-5, Vehicles and Average Daily Trips, summarize the anticipated average daily trips for various vehicles and Table 3-6, Proposed Trip Generation: Average Daily Traffic, AM and PM Peak Hour, and Breakdown of Arrivals and Departures, the project is estimated to generate 158 average daily trips (ADT) (134 ADT resulting from material haul trucks, 20 ADT resulting from 10 employee vehicles, and approximately 4 resulting from other vehicle trips). Of these ADTs, there would be **24 evening peak hour trips and 14 morning peak hour trips**.

(Draft EIR, p. 3-25 [emphasis added]; see also Draft EIR p. 4.14-1.)

As indicated in the Draft EIR, pursuant to the County of Kern Division 9 (Standards for Traffic Engineering, 902-1), a traffic study may be required for a project that would generate 50 or more vehicle trips during any peak hour. Here, the project will generate 14 morning peak hour trips and 24 evening peak hour trips. Because the project will generate less than 50 trips during any peak hour, the Lead Agency determined that a traffic study is not required for the project. (Draft EIR p. 4.14-1.)

- 12-BI:** The commenter alleges the following discrepancies or deficiencies concerning transportation impacts: (1) that the Draft EIR identifies miscellaneous truck trips that were not identified in the *Gem Hill Quarry Trip Generation Assessment (Revised (2021))*; (2) that the *Gem Hill Quarry Trip Generation Assessment (Revised (2021))* minimizes peak am trips by not including

employee arrivals and minimizes peak pm trips by not including haul truck arrivals; and (3) that consideration of these additional trips (increased by using passenger car equivalents [PCE]) would exceed the traffic impact limit and require a traffic study. The comment is noted for the record.

First, Draft EIR Table 4.14-1 includes four daily miscellaneous trips for services and deliveries. These were not included in the *Gem Hill Quarry Trip Generation Assessment (Revised (2021))*, but were included in the analysis of the project's impacts. (Draft EIR 4.14-11.) The Draft EIR assumes these trips will occur outside of the peak AM and PM hours so as to avoid interference with the heaviest operational periods of the day. (Draft EIR 4.14-11.)

Second, the *Gem Hill Quarry Trip Generation Assessment (Revised (2021))* does not minimize peak am and pm trips. As indicated in the Draft EIR, typical hours of operation are from 7:00 a.m. to 7:00 p.m., Monday through Saturday (E.g., Draft EIR p. 1-2.) Because of these hours, it is assumed that employees will arrive before 7:00 a.m., and will depart after 5:00 p.m., and thus these trips will occur outside of peak hours. (See Draft EIR p. 4.14-11 [Table 4.14-1 fn. 2.].) Likewise, the Draft EIR assumes that haul trucks will not arrive at the project site during the PM peak hour because the workday is ending that these haul trucks will not return to the project site only to sit overnight. Trucks that leave the project site during the PM peak hour, by contrast, will have arrived to be loaded before the PM peak hour begins. Thus, substantial evidence supports the Draft EIR's allocation of trip generation, as shown in Draft EIR Table 4.14-1. (Draft EIR p. 4.14-11.)

Third, the Draft EIR does, in fact, show both AM and PM peak hour trips with the PCE multiplier. As indicated in the Draft EIR:

As shown in Table 4.14.1, Project Trip Generation Summary, the proposed project is predicted to generate approximately 42 AM peak-hour passenger car equivalent (PCE) trips and 31 PM peak-hour PCE trips. Because the proposed project is not expected to generate 50 or more vehicles during any peak hour, a traffic study is not required for the project and the project is presumed to have a less than significant impact associated traffic operations levels of service (LOS).

(Draft EIR p. 4.14-11.)

As discussed previously, no additional trucks need to be added to AM and PM peak hours because the project's trip generation assumptions are supported by substantial evidence. (See Draft EIR p. 4.14-11 [Table 4.14-11].)

12-BJ: The commenter states that the Draft EIR does not properly account for traffic distribution, and that 10 trips should be added to the AM peak hour, and 7 haul trucks should be added to the PM peak hour. The comment is noted for the record.

See Response to Comment 14-III. The Lead Agency further notes, for the record, that 20 employees would work onsite. Of these 20, 10 would arrive by passenger car before 7:00 a.m. to be onsite when the workday starts (typically 7:00 a.m. to 7:00 p.m.), and would leave after 5:00 p.m. The other 10 employees would arrive to and leave from the project site in their haul

trucks. No haul trucks would arrive during peak PM hours, however, trucks that arrive before peak PM hours will depart during peak PM hours, as indicated in the Draft EIR. (See Draft EIR p. 4.14-11 [Table 4.14-11].)

- 12-BK:** The commenter asks whether the analysis of project noise impacts considers trucks travelling up and down hill and braking. The comment is noted for the record.

As indicated in the Draft EIR, to assess haul road noise levels, traffic noise contours were developed representing the distance to noise levels of a constant value as measured from the center of the roadway for the 70, 65, and 60 dBA noise levels. The noise contours, conservatively, do not consider the effect of any existing noise barriers or topography that may attenuate ambient noise levels. (Draft EIR p. 4.12-6.) In reality, the surrounding topography (i.e. hilly terrain) is likely to attenuate noise impacts to a greater extent than analyzed in the Draft EIR, resulting in quieter project-related noise levels than identified in the Draft EIR at receptors. (See Draft EIR pp. 4.12-6 – 4.12-7.)

- 12-BL:** The commenter requests that the Lead Agency consider using a different time of day corrections for the CNEL thresholds of significance due to nonstandard work hours and work-from home residences. The comment is noted for the record.

As indicated in the Draft EIR:

The CNEL is the weighted average of the intensity of a sound, with corrections for time of day, and averaged over 24 hours. The time-of-day corrections require the addition of 5 decibels to dBA Leq sound levels in the evening from 7:00 p.m. to 10:00 p.m., and the addition of 10 decibels to dBA Leq sound levels at night between 10:00 p.m. and 7:00 a.m. These additions are made to account for the noise sensitive time periods during the evening and night hours when noise can become more intrusive. CNEL does not represent the actual sound level heard at any time, but rather represents the total sound exposure. The Kern County relies on the 24-hour CNEL level to assess land use compatibility with transportation related noise sources.

(Draft EIR Appendix J.)

Because project operations are typically 7:00 a.m. to 7:00 p.m., no time-of-day corrections were required to analyze the project's noise impacts. (See Draft EIR p. 1-2.) Notwithstanding, even if the Lead Agency applied the highest time-of-day correction of 10 dBA Leq to predicted on-site operation noise levels at the identified receptor locations, the projected noise levels would still remain significantly under the thresholds of significance. (See Draft EIR p. 4.12-14 [Table 4.12-6].)

- 12-BM:** The commenter states that the project's scheduled operations exceed the County's construction noise abatement weekend times and, therefore, asks the County to consider reducing the term of the project. The comment is noted for the record.

As indicated in the *Gem Hill Quarry Noise and Vibration Impact Analysis Kern County (Urban Crossroads 2022)*:

The Kern County Code of Ordinances does not specifically address construction noise limits; however, it does provide prohibited hours during which no construction activity may take place. According to Section 8.36.020.H, it is unlawful for any person...to create noise from construction between the hours of 9:00 p.m. and 6:00 a.m. on weekdays and 9:00 p.m. and 8:00 a.m. on weekends, which is audible to a person with average hearing faculties or capacity at a distance 150 feet from the construction site

(Draft EIR Appendix J.)

Here, the project is not a construction project. The project is for surface mining operations. Thus, the County's prohibition on construction during certain hours does not apply to the project.

- 12-BN:** The commenter states that the noise and vibration analysis is flawed because it assumes a smooth road when Mojave Tropicco is not smooth and will deteriorate during the project term. The comment is noted for the record.

As indicated in the *Gem Hill Quarry Noise and Vibration Impact Analysis Kern County (Urban Crossroads 2022)*:

The project operational vibration impacts will include off-site (haul route) heavy trucks activity. Truck vibration levels are dependent on vehicle characteristics, load, speed, and pavement conditions. According to the FTA Transit Noise Impact and Vibration Assessment trucks rarely create vibration that exceed 70 VdB (0.0032 PPV in/sec) (unless there are bumps due to frequent potholes in the road). (8 p. 113) Since the heavy trucks will be travelling at very low speeds on smooth surfaces, it is expected that off-site (haul route) heavy truck vibration impacts at nearby receiver locations will not be considered perceptible and therefore, will be *less than significant*.

(Draft EIR Appendix J.)

In reviewing the photos provided by the commenter on pages 24-28 of the comment letter, the Lead Agency notes that Mojave Tropicco Road appears smooth and without potholes. The commenter's statement that Mojave Tropicco Road is not smooth is contradicted by her own photos and, therefore, lacks credibility so as to provide substantial evidence contradicting the conclusions of the *Gem Hill Quarry Noise and Vibration Impact Analysis Kern County (Urban Crossroads 2022)*.

- 12-BO:** The commenter states that predicted airblast levels for receptor 5 are not less than significant because although they are less than the threshold of significance, it is approximately 207% as loud as ambient noise levels. The comment is noted for the record. The Draft EIR analyzed

project-related airblast noise impacts and determined that impacts did not exceed the applicable airblast standards. (Draft EIR p. 4.12-16 [Table 4.12-8].)

As indicated in the Draft EIR:

Due to the short-term instantaneous nature of blasting, the project blasting-related airblast levels are based on the 133 dB criteria identified by the ISEE. Blasting airblast impacts presented here are considered to represent worst-case (closest) blast locations describing the potential impacts when measured from the edge of the nearest blast area to the nearest receptor location. Blasts would result in lower airblast noise levels at more distant receptors. The Urban Crossroads (2022) analysis evaluates partially confined airblast levels calculated using the Blasters' Handbook equation for general construction blasting activities and is considered representative of project mining activity blasting.

Table 4.12-8, *Predicted Project Airblast Levels at Receptor Locations*, presents the predicted noise level increases at each receptor location. As shown in the table, airblast levels are expected to range from 95.3 to 110.5 dB and would be below the 133 dB airblast threshold at the nearest noise sensitive residential receptor locations. Therefore, the project impact associated with airblast noise levels would be less than significant.

(Draft EIR p. 4.12-15.)

12-BP: The commenter states that predicted noise levels for receptor 5 are near the threshold of significance and the conclusion should be revisited. This comment appears to be referencing unmitigated noise levels without topographic or barrier attenuation in the *Gem Hill Quarry Noise and Vibration Impact Analysis Kern County* (Urban Crossroads 2022). The commenter also asks whether the noise analysis included onsite generators, increased wind noise from equipment and obstructions, and considered condition of Mojave Tropico Road and grade of terrain. The comment is noted for the record.

As indicated in the Draft EIR:

Table 4.12-10, *Off-Site Haul Route Traffic Noise Increases*, provides the predicted noise level increases at the nearest receptor land use. (A detailed description of the modeling procedure and inputs is provided in the *Gem Hill Quarry Noise and Vibration Impact Analysis* [Urban Crossroads 2022]), included as Appendix J of this EIR.) As shown in Table 4.12-10, *Off-Site Haul Route Traffic Noise Increases*, the predicted noise level increases at the nearest receiving land uses would not exceed the applicable thresholds; therefore, noise levels and noise level increases resulting from project haul trucks along haul road segments would be less than significant.

(Draft EIR p. 4.12-17.)

With respect to the questions about the methodology of the noise analysis, the Lead Agency notes the following. First, the noise analysis did not specifically include onsite generators

because it is impractical, for an operation such as a mining operation, to measure noise levels from each individual noise source, which often move around to different locations in a quarry. Rather, as was done in the *Gem Hill Quarry Noise and Vibration Impact Analysis Kern County (Urban Crossroads 2022)*, reference noise measurements that are representative of aspects of the mining operation, as a whole, are taken and used to determine whether the operation will have noise levels that exceed thresholds of significance. It is simply not realistic to account for each individual potential source of noise.

Thus, the analysis assumed noise levels representative of similar operations, including power generation, and determined that the project's operational noise impacts are less than significant. (Draft EIR p. 4.12-14.)

Second, the noise analysis did not include any analysis of increased wind noise from onsite equipment and structures because there is no evidence to suggest that the project's equipment (Draft EIR pp. 3-19 – 3-20 [Table 3-3]) will increase wind noise. As noted above, the noise analysis is based on representative measurements from similar mining operations.

Third, the noise analysis did consider the condition of Mojave Tropic Road (smooth), but the noise contours, conservatively, do not consider the effect of any existing noise barriers or topography that may attenuate ambient noise levels. (Draft EIR p. 4.12-6.) In reality, the surrounding topography (i.e. hilly terrain) is likely to attenuate noise impacts to a greater extent than analyzed in the Draft EIR, resulting in quieter project-related noise levels than identified in the Draft EIR at receptors. (See Draft EIR pp. 4.12-6 – 4.12-7.)

12-BQ: The commenter requests that the Lead Agency consider a more limited schedule for blasting operations and require blasting schedules to be distributed to local residents. The comment is noted for the record.

The Lead Agency notes that the comment does not raise a significant environmental concern and need not be addressed in these responses to comments. (14 Cal. Code Regs., 15088(c).) Notwithstanding, the Lead Agency notes that the project already limits the schedule for blasting operations between the hours of 10:00 a.m. and 4:00 p.m. Monday through Friday. (Draft EIR p. 3-18.) Requiring even greater limits, as well as requiring a monthly blasting schedule is not feasible given that blasting is only done on an as needed basis, and must be coordinated with a licensed blasting contractor and explosive delivery company so that there is no storage of explosive material onsite. (Draft EIR p. 3-18; see also Draft EIR p. 4.8-20 -Mitigation Measure 4.8-3.]) As indicated in the Draft EIR, blasting operations will not result in a significant impact related to noise or vibration. (Draft EIR pp. 4.12-15 – 4.12-16, 4.12-19.) Accordingly, no further limitations are required.

12-BR: The commenter requests that the Lead Agency consider limiting the project's hours of operation and associated noise generation as more reasonable for adjacent residences. The comment is noted for the record.

The Lead Agency notes that the comment does not raise a significant environmental concern and need not be addressed in these responses to comments. (14 Cal. Code Regs., 15088(c).) Notwithstanding, the Lead Agency notes that, as indicated in the Draft EIR, noise associated

with project operations, including onsite operations, blasting, and off-site haul truck operations would not exceed County standards and would not exceed thresholds of significance at any noise-sensitive residential receptor locations, therefore, operational impacts would be less than significant. (Draft EIR 4.12-17.) No further limitations on the project's hours of operations are required.

- 12-BS:** The commenter states that the project has significant and unavoidable impacts to transportation and should be reconsidered. The comment is noted for the record.

This comment is conclusory in nature and is not supported by specific evidence. Accordingly, the Lead Agency is unable to respond meaningfully.

- 12-BT:** The commenter states that her neighbor's husband was nearly run off of the road by the applicant's trucks and that the applicant did damage to the roads. The comment is noted for the record.

The Lead Agency notes that the comment does not raise a significant environmental concern and need not be addressed in these responses to comments. (14 Cal. Code Regs., 15088(c).) Notwithstanding, the Lead Agency must correct a factual inaccuracy. The applicant has never been authorized to complete a "test project." Any development, grading, or other work completed by the applicant on their property has been in conformance with all applicable laws and regulations. The applicant has never conducted surface mining operations under state and local law on the project Site.

- 12-BU:** The commenter states that the Draft EIR: (1) does not mention the effects of increased haul truck traffic on the road; (2) does not address the degraded nature of Mojave Tropic Road; and (3) does not identify who is responsible for maintaining the road. The comment is noted for the record.

With respect to the first comment, the Draft EIR does discuss the effect of an increased number of trucks and vehicles on the road:

Project operations would increase traffic volumes along surrounding roadways proposed for use as haul routes, including Mojave-Tropico Road, Backus Road, Tehachapi-Willow Springs Road, and Oak Creek Road (Figure 4.14, Project Location and Existing Street Network, in Section 4.14, Transportation). However, project personnel commuting to the project site via these roadways and haul truck drivers would be required to adhere to all traffic laws. The increase in employee and haul truck trips associated with the project would not adversely affect the CHP's ability to patrol the roadways. The additional vehicle trips would not result in the need for new or altered public service facilities. Up to 20 employees would work on-site, including about 10 truck drivers that would operate haul trucks for material movement within the site and for transport of material to offsite locations. This population is not anticipated to increase the need for law enforcement services.

(Draft EIR p. 4.13-9.)

In addition, the Draft EIR notes that Caltrans regulations will apply to the transportation and traffic impacts of the project, including regulations pertaining to licensing, size, weight, and load of vehicles operated on the highway, and the need to obtain permits for any roadway encroachments. (Draft EIR p. 4.14-5.)

Further, the Draft EIR analyzed whether the project would substantially increase hazards due to any design feature. As indicated in the Draft EIR:

[T]he applicant is required to obtain encroachment permits from Kern County for development and use of the project's primary and secondary access road intersections with Mojave-Tropico Road. After obtaining such encroachment permits and constructing any road improvements required thereby, the project would not contribute to an increase in hazards due to a design feature and therefore will not have a significant impact. Therefore, this impact would be less than significant with mitigation.

(Draft EIR p. 4.14-14.)

Second, as previously discussed, the applicant has not conducted surface mining operations at the project site, accordingly, there is no support for the contention that the applicant's quarry and mining operations have significantly degraded Mojave Tropic and adjacent roads. Rather, the photographs provided by the commenter on pages 24 – 28 of the comment letter show that Mojave Tropic Road is in excellent condition.

Third, the Lead Agency notes that Mojave Tropic Road is a County maintained roadway.

12-BV: The commenter states that a traffic study should be completed because the project will exceed 50 peak hour AM and PM trips pursuant to County of Kern Division 9 Standards for Traffic Engineering, 902-1.02. The comment is noted for the record.

As indicated in the Draft EIR, no traffic study is required because the project will not exceed 50 peak hour AM or PM trips. See Response to Comment 12-BH.

12-BW: The commenter states that the Draft EIR incorrectly describes Mojave-Tropico Road as a road "with limited to no shoulders." The commenter states that Mojave-Tropico Road has no "prepared" shoulders at all. The Draft EIR correctly describes the status and condition of Mojave-Tropico Road. (See Draft EIR p. 4.14-1 – 4.14-2.)

12-BX: The comment states that the project would substantially increase hazards as a result of design features that have not been mitigated. Specifically, the commenter states that the creation of additional access on Mojave-Tropico Road will create blind intersections. The comment is noted for the record. The Draft EIR analyzed whether the project could increase hazards on the roadway and determined that the impact would be less than significant with mitigation. (Draft EIR p. 4.14-14.)

The Lead Agency notes, as a preliminary matter, that the project will create a new secondary access on Mojave-Tropico Road. Primary project access will come via an existing access road, for which the project requires improvements. (E.g., Draft EIR pp. 1-12, 2-1, 3-2, 4.17-9). Haul

trucks will exit the site on the primary access road; haul trucks will enter the site on either the primary access road or the secondary access road. All vehicles (other than haul trucks) will enter/exit the site on either the primary access road or the secondary access road.

Moreover, as discussed in Response to Comment 12-BU, the Draft EIR notes that Caltrans regulations will apply to the transportation and traffic impacts of the project, including regulations pertaining to licensing, size, weight, and load of vehicles operated on the highway, and the need to obtain permits for any roadway encroachments. (Draft EIR p. 4.14-5.)

Further, the Draft EIR analyzed whether the project would substantially increase hazards due to any design feature. As indicated in the Draft EIR:

[T]he applicant is required to obtain encroachment permits from Kern County for development and use of the project's primary and secondary access road intersections with Mojave-Tropico Road. After obtaining such encroachment permits and constructing any road improvements required thereby, the project would not contribute to an increase in hazards due to a design feature and therefore will not have a significant impact. Therefore, this impact would be less than significant with mitigation.

(Draft EIR p. 4.14-14; see also Draft EIR Mitigation Measure 4.14-1 [requiring the operator to construct access points along the Mojave Tropico Road frontage under an encroachment permit].)

12-BY: The commenter states that the project will result in inadequate emergency access because it will result in a blind intersection. The comment is noted for the record.

See response to comment 12-BX. The Lead Agency further notes that the project's access roads are required to meet the requirements of California Fire Code Section 503.2, as confirmed by the comments submitted by the Kern County Fire Department in response to the DEIR. As such, the requirement to comply with California Fire Code Section 503.2 will be made a Conditions of Approval for the project.

12-BZ: The commenter states that the project would result in cumulative transportation and traffic impacts, because the project's individual transportation impacts are not properly mitigated. Specifically, the commenter states that the creation of additional access on Mojave-Tropico Road will create blind intersections, and the condition of the road leaves no shoulder with any safe place for a driver to pull off the road. Lastly, the commenter states that the additional traffic will degrade roads and increase congestion. The comment is noted for the record. The Draft EIR analyzed the project's potential cumulative transportation impacts and determined they would be less than significant with mitigation incorporated. (Draft EIR p. 4.14-15.)

As indicated in the Draft EIR:

[T]he project would generate fewer than 50 trips during any peak hour and therefore does not require a traffic impact study and is presumed to have a less than significant impact related to LOS. Thus, the analysis and conclusions under Impact

4.14- 1 also reflect a cumulative analysis, and the project would not result in a significant contribution to LOS deficiencies in the surrounding road network but would contribute to potential safety hazards and regional emergency access. With implementation of Mitigation Measure MM 4.14-1, impacts would be less than significant under both project-specific considerations and cumulative conditions.

(Draft EIR p. 4.14-15; see also Draft EIR pp. 4.4-10 – 4.4-14.)

See Responses to Comments 12-BU through 12-BY.

- 12-CA:** The commenter states that she has found obvious artifacts on her property, which is adjacent to the project Site. The comment is noted for the record.

The Lead Agency notes that the comment does not raise a significant environmental concern and need not be addressed in these responses to comments. (14 Cal. Code Regs., 15088(c).) See Response to Comment 12-AG.

- 12-CB:** The commenter requests that unredacted Cultural Resource Investigation reports be published in the Draft EIR. The comment is noted for the record.

As discussed in Response to Comment 3-M and Response to Comment 12-AH, the Lead Agency notes that environmental documents, like the Draft EIR, must not include information about the location of an archeological site of sacred lands or any other information that is exempt from public disclosure under the California Public Records Act. (14 Cal. Code Regs., § 15120(d), see also *Clover Valley Foundation v. City of Rocklin* (2011) 197 Cal.App.4th 200, 220.) Native American graves, cemeteries, and sacred places and records of Native American places, features, and objects are also exempt from disclosure. (Pub. Resources Code, §§ 5097.9, 5097.993.) Confidential cultural resource inventories or reports generated for environmental documents are to be maintained by the lead agency under separate cover and shall not be available to the public. (See *Clover Valley Foundation*, at 221 (citing Governor’s Office of Planning and Research, Cal. Tribal Consultation Guidelines (Nov. 14, 2005, supp. p. 27).)

The confidentiality of this report does not change the Draft EIR’s determination of project significance on cultural or tribal cultural resources.

- 12-CC:** The commenter states that the project is engaged in archaeological gerrymandering by only covering 30 acres. The commenter misunderstands the purpose of the referenced report. The Draft EIR surveyed potential cultural resource impacts on the entirety of the project site through four separate cultural resource investigations. (Draft EIR pp. 4.4-6 – 4.4-9.)

As discussed in Response to Comment 12-AI, the Lead Agency notes that McKenna prepared the report referenced by the commenter, *A Phase II Cultural Resources Investigation of the Cal-Portland Rosamond Hills (Gem Hill) Project Area in the Rosamond Area of Kern County, California* (2019), to further evaluate potential cultural resources observed during an earlier Phase I cultural resources survey. As indicated in the Draft EIR, the referenced Phase II survey focused on an area of the project site for which a grading plan was under consideration. (Draft EIR p. 4.4-8.) Later, however, McKenna prepared the *Addendum Report: A Phase II Cultural*

Resources Investigation of the CalPortland Rosamond Hills (Gem Hill) Project Area in the Rosamond Area of Kern County (2020) to cover approximately 190 acres of the project site, including the secondary access road alignment and the previously analyzed 30 acres, as well as the *Supplemental Report: Cultural Resource Investigations of Additional Acreage at The CalPortland Rosamond Hills (Gem Hill) Project Area in the Rosamond Area of Kern County, California* (2021) to cover an approximately 17-acre portion of the project site that had not been previously surveyed. (Draft EIR pp. 4.4-8 – 4.4-9.) Thus, as indicated in the Draft EIR, the cultural resources investigations provided Phase I and Phase II investigation of the project site in its entirety. (Draft EIR p. 4.4-9; see also Draft EIR, Figure 4.4-1, p. 4.4-7.)

12-CD: The commenter lists certain recommendations listed in the cultural resource investigations completed for the project and requests that that all previously discovered, and newly discovered artifacts be delivered to the nearest accepting museum. The comment is noted for the record. The Draft EIR considered and analyzed the project's impacts to cultural and tribal cultural resources and determined that the impacts will be less than significant with the proposed mitigation. (Draft EIR pp. 4.4-25 – 4.4-30,

With respect to the comment listing recommendations in the cultural resource surveys, as indicated in the Draft EIR:

[Based on the findings of the cultural resources investigations prepared for the project by CRM Tech (2019) and McKenna et al. (2019, 2020a, 2021) and a records search of the project area conducted at the SSJVIC, one historic-period resource has been identified with the potential to be adversely affected by the proposed project. McKenna et al. (2019) research confirmed the alignment for Mojave-Tropico Road is a historic period roadway. As a recognized historic road alignment, McKenna et al. recorded the alignment on the appropriate California DPR-523 forms. The project's proposed primary and secondary access road improvements could require some physical effects to the portion of Mojave-Tropic Road. McKenna et al. (2019) notes that the former dirt road alignment of the Mojave-Tropic Road was obliterated by the widening and paving of the road by 1943. McKenna et al. (2019) considers this road to be a locally significant cultural resource and notes that, through design, adverse project impacts can be avoided and concludes that the project improvements would not be extensive or result in an adverse impact, regardless of the potential significance of the road. (McKenna et al. 2019)

(Draft EIR p. 4.4-25.)

Notwithstanding, the Lead Agency has proposed Mitigation Measures 4.4-1 through 4.4-4 to, among other things, provide for worker training, onsite monitoring during initial ground excavation, a disposition plan for any unexpected cultural discoveries, and for a plan to contact the relevant authorities in case of the unexpected discovery of human remains. (Draft EIR p. 4.4-25 -4.4-29.) These mitigations will reduce potential impacts to a less than significant level.

With respect to the request regarding the disposition of any encountered artifacts, the Lead Agency notes that the comment does not raise a significant environmental concern and need

not be addressed in these responses to comments. (14 Cal. Code Regs., 15088(c).) Notwithstanding, the Lead Agency notes that proposed Mitigation Measure 4.4-3 provides for the disposition of unanticipated cultural and tribal cultural resources discoveries during project operations. In summary, the applicant will consult with Native American representatives if unanticipated tribal resources are discovered. Any unanticipated archaeological materials will be presented for curation at an accredited facility, and the project's Lead Archaeologist will prepare a report documenting the evaluation and/or additional treatment of the resource. (Draft EIR pp. 4.4-26 – 4.4-27.)

- 12-CE:** The commenter states that the project involves drilling of a new well that will drain a significant amount of water from an already restricted and disadvantaged community. The comment is noted for the record.

See Response to Comment 12-AV. As discussed in Draft EIR Section 4.9.4, the project's water supply assessment assessed whether the project would impact the pumping of groundwater from nearby wells, using the best information that is publicly available, and determined that the project would have no significant impact on the neighboring water use. (Draft EIR p. 4.9-19.)

- 12-CF:** The commenter states that project dust will reduce the efficiency of adjacent residential and commercial solar energy production facilities. The comment is noted for the record.

See Response to Comment 12-AL. The Draft EIR analyzed potential impacts related to dust and air quality and determined these impacts would be mitigated to a less than significant level. (Draft EIR, pp. 4.2-38 – 4.2-59.) The Draft EIR concludes that compliance with Mitigation Measure 4.2-1 through 4.2-5, including compliance with Rule 402 of the EKAPCD's rules and regulations relating to fugitive dust, will ensure that impacts related to dust will be less-than-significant. (Draft EIR pp. 4.2-38 – 4.2-48.)

- 12-CG:** The commenter states that multiple reports noted the presence of trash on the project site and requests more frequent trash removal services to reduce wildfire risk. The comment is noted for the record. Draft EIR Chapter 4.17 discussed and analyzed the project's potential impacts related to wildfire and determined that all impacts would either be less than significant or less than significant with mitigation incorporated. (Draft EIR pp. 4.17-6 – 4.17-11.)

The Lead Agency has proposed Mitigation Measure 4.1-1 which requires, among other things, that prior to project-related ground disturbance the applicant submit a Maintenance and Trash Abatement/Pest Management Program to the County. This plan must include, among other requirements, that the applicant clear debris from the site at least twice per year and that trash and food items be stored in closed containers and removed at least once per week. The plan also requires the applicant to post signs with contact information along the project site boundary to report additional debris for cleanup. (Draft EIR p. 1-22.) Based on the analysis in the Draft EIR and Mitigation Measure 4.1-1, no additional or more frequent trash removal is required.

- 12-CH:** The commenter states that vegetation removal to prevent wildfires will create more dust and airborne debris, increasing risk for Valley Fever spore exposure. The commenter requests that Lead Agency consider requiring mechanical trimming, rather than bulldozing of vegetation,

and dust mitigation for all areas where vegetation is mechanically removed. The comment is noted for the record.

The Lead Agency notes that the applicant will not remove vegetation to prevent wildfire. Rather, the applicant is required to keep site disturbances to a minimum. As indicated in the Draft EIR, vegetation removal necessary for project activities will result in reduced opportunities for fire risk:

Ignition of existing vegetation would be most likely to occur during periods of initial surface clearing and excavation. Once vegetation is removed and excavation recesses into the mining area and overburden stockpile footprints are established, vegetation fuel sources would become limited or nonexistent within the mining and other operational areas. The project's internal haul routes and primary and secondary access roads would serve as wildland fire breaks. Fire risk would be heightened during weather conditions with warm temperatures, low humidity, and strong winds. Heavy equipment (grader and dozer) would initially remove vegetation in proposed disturbance areas (e.g., mining areas, access roads, and stormwater basins), which would increase wildfire risk. However, after vegetation is removed in an area, wildfire risks would be reduced. The KCFD, which would provide fire protection service to the project site, would have the necessary tools to extinguish any fires that may be generated on the project site. Proposed disturbed areas, comprising approximately 82.2 acres, would be required to be reclaimed. Such reclamation would require disturbed areas to be revegetated in accordance with the approved reclamation plan. Proposed revegetation is intended to support an end use of open space. It is anticipated the reclaimed vegetation would not pose a greater wildfire risk than the existing vegetation. As proposed, the reclamation plan would include reseeding with the seed mix presented in Table 4.17-1, Proposed Revegetation Plant Seed Mix.

(Draft EIR p. 4.17-7.)

These activities were also analyzed for their air quality impacts. (See Draft EIR pp. 4.2-1 – 4.2-59 [Draft EIR Chapter 4.2].) See Response to Comment 12-AL. The Draft EIR analyzed potential impacts related to dust and air quality and determined these impacts would be mitigated to a less than significant level. (Draft EIR, pp. 4.2-38 – 4.2-59.) The Draft EIR concludes that compliance with Mitigation Measure 4.2-1 through 4.2-5, including compliance with Rule 402 of the EKAPCD's rules and regulations relating to fugitive dust, will ensure that impacts related to dust will be less-than-significant. (Draft EIR pp. 4.2-38 – 4.2-48.) No further mitigation is required.

12-CI: The commenter states that impacts to the environment were negligently evaluated in the Draft EIR, as shown by her previous comments. The comment is noted for the record.

See Response to Comments 12-A through 12-CH.

12-CJ: The commenter states that disadvantaged communities are not addressed in either the NOP or Draft EIR. The commenter also provides figures containing data from the EPA's

Environmental Justice Screening and Mapping Tool (EJScreen) concerning the project site and surrounding areas. The comment is noted for the record.

As a preliminary matter, the Lead Agency notes that there is no town or identified neighborhood or community surrounding the project site. The project site is located in a rural area within few residential neighbors.

Second, the Lead Agency notes that, contrary to the commenter's assertion, the project site and surrounding area have not been identified as a California disadvantaged community. the Lead Agency notes that the Project Site is not located in either an SB 535 disadvantaged community, or an AB 617 disadvantaged community.

Third, Notwithstanding the foregoing, the Lead Agency notes that in the context of environmental justice, mining uses are unique. Unlike other land uses, such as a merchandise distribution facility, for example, the location of a mining use must occur where the resource is found. Thus, cities and counties are significantly hindered in where they can approve mining uses. This is especially true when the resource is unique or somewhat rare, such as the volcanic tuff the applicant seeks to mine in this project.

The Lead Agency did, however, analyze the project's potential land use conflicts, determining that the project would not cause a significant environmental impact due to a conflict with any land use plan, policy, or regulation. (Draft EIR, pp. 4.10-17 – 4.10-18.)

Draft EIR Section 4.10 assesses the project's potential impacts on land use. Draft EIR Table 4.10-1, Figure 4.10-1, and Figure 4.10-2 provide the project site's existing general plan designations and zoning classifications, as well as general plan designation and zoning classifications of the surrounding properties. (Draft EIR, pp. 4.10-2 – 4.10-6.)

Draft EIR Section 4.10.4 discusses the project's potential impacts concerning the conflict with any land use plan, policy, or regulation. As identified in the Draft EIR, the project, including implementation of the proposed mitigation measures, would not conflict with the Kern County General Plan or the Kern County Zoning Ordinance, which allow surface mining operations in the project's A (Exclusive Agriculture) Zone Classification subject to securing a Conditional Use Permit. Accordingly, the Draft EIR concluded that the project's impacts related to land use conflicts will be less than significant. (Draft EIR, p. 4.10-17.) Thus, the Lead Agency considered whether the project was appropriate for the project site and determined there was no conflict.

Fourth, as indicated in the Draft EIR, the Lead Agency has proposed significant mitigations for the project, even in situations where the Lead Agency has determined that the project will have a less than significant impact. For example, while the Lead Agency has concluded that the project will not exceed applicable thresholds for criteria pollutants, the Lead Agency still has recommended mitigation measures to further reduce environmental impacts related to air quality.

Fifth, concerning EJScreen, the Lead Agency notes that the EPA states the following concerning the presented data:

[T]here is substantial uncertainty in demographic and environmental data, particularly when looking at small geographic areas. EJScreen is not intended to provide a risk assessment. Also, EJScreen does not provide data on every environmental impact and demographic indicator that may be relevant to a particular location, and data may be several years old.

(<https://www.epa.gov/ejscreen/what-ejscreen>)

The EPA also provides the following caveats and limitations upon using EJScreen:

Appropriate Uses of EJScreen

EJScreen was developed by EPA to highlight places that may be candidates for further review, analysis or outreach to support the agency's environmental justice work. EPA is releasing EJScreen to the public in part to be more transparent about how the agency considers environmental justice in its work. There is no mandate or guidance expressed or implied that state governments or other entities should use the tool or its underlying data.

Issues Not Covered by EJScreen

Additionally, it is important to understand that EJScreen is not a detailed risk analysis. It is a screening tool that examines some of the relevant issues related to environmental justice, and there is uncertainty in the data included. It is important to understand both of these limitations.

The first limitation arises because a screening tool cannot capture all the relevant issues that should be considered (e.g., other environmental concerns). Any national screening tool must balance a desire for data quality and national coverage against the goal of including as many important environmental factors as feasible given resource constraints.

Many environmental concerns are not yet included in comprehensive, nationwide databases. For example, data on environmental factors such as drinking water quality and indoor air quality are not available with adequate quality, coverage and/or resolution to be included in this national screening tool. EJScreen cannot provide data on every environmental impact and demographic factor that may be important to any location. Therefore, its initial results should be supplemented with additional information and local knowledge whenever appropriate, for a more complete picture of a location.

Uncertainty in Estimates for Small Areas

The second important limitation is that EJScreen relies on demographic and environmental estimates that involve substantial uncertainty. This is especially true when looking at a small geographic area, such as a single Census block group. A

single block group is often small and has uncertain estimates. Therefore, it is typically very useful and advisable to summarize EJScreen data within a larger area that may cover several block groups, in what is called a "buffer" report.

The demographic estimates, such as percent low-income, come from surveys, not a full census of all households. This means the Census Bureau may estimate that a block group is 30% low-income, for example, but it might actually be 20% or 40% in some cases.

All indicators are calculated for each block group. The only exception is certain environmental indicators for air quality (PM, ozone, and NATA indicators). Those air data were obtained for each Census tract, so each block group in a tract was assigned the same environmental indicator value, as described in the Technical Documentation.

(<https://www.epa.gov/ejscreen/limitations-and-caveats-using-ejscreen>)

Sixth, with respect to the comment that Executive Order 12898 requires assessment of disproportionate environmental impacts, the Lead Agency notes that such order only applies to certain federal actions.

12-CK: The commenter states that the Draft EIR should have analyzed an alternative mining location as a project alternative. The comment is noted for the record.

The Lead Agency notes that CEQA only requires the Lead Agency to consider “a range of reasonable alternatives to the project, or location of the project, which would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project” (14 Cal. Code Regs., § 15126.6(a).)

Here, the Lead Agency considered, but ultimately rejected, consideration of an alternative project location. CEQA acknowledges that alternative locations may not be feasible. The CEQA Guidelines state that “in some cases there may be no feasible alternative locations for a geothermal plant or mining project which must be in close proximity to natural resources at a given location.” (14 Cal. Code Regs., § 15126.6(f)(2)(B).) Notwithstanding, as indicated in the Draft EIR,

The project proponent provided input regarding research of other existing pozzolan sources and review mine operations in eastern Kern, western San Bernardino, Mono and Inyo counties to determine if there are any existing pozzolan mines or sources that could supply material to the market area in adequate quality and quantity to meet the proposed project’s production goals. The research concluded that there are no existing operation sites closer to the market than the proposed project site. Furthermore, most of the known sites are small operations that produce low amounts of mostly pumice or cinder; approved production levels and reserves are unknown, and the quality of available material is unknown and would require lab and product testing to assess potential suitability. Additionally, it is unlikely

that any of the existing sites would be able to supply the 500,000 tons/year or have reserves approaching 15 million tons as estimated for the proposed project.

(Draft EIR p. 1-18; see also Draft EIR pp. 6-2 – 6-3.)

The Lead Agency satisfied its CEQA obligations in considering alternative project locations.

- 12-CL:** The commenter states that mining a source of pozzolan materials closer to the applicant's cement facility benefits the applicant, but not the County, and should not be used as an argument to dismiss an alternative location. The comment is noted for the record.

See Response to Comment 12-CK. The Lead Agency also notes that there is a direct benefit to the County in locating a source of raw materials closer to the applicant's cement facility. For one example, a closer source of materials means fewer miles of haul, which, in turn, reduces air quality emissions from diesel haul trucks. (See e.g., Draft EIR p. 4.2-44 [Table 4.2-7 – showing that the majority of project emissions result from off-site haul trucks].)

- 12-CM:** The commenter states that since the project already has significant and unavoidable impacts, the applicant should find another project location. The comment is noted for the record.

As discussed in Response to Comment 12-CK, there are no feasible alternative project sites that would meet the applicant's project goals and objectives. (Draft EIR p. 1-18; see also Draft EIR pp. 6-2 – 6-3.)

- 12-CN:** The commenter states that dismissing the phased mining alternative on the grounds that it is unknown whether the size and site of the quarry would allow for such an approach was inappropriate. The comment is noted for the record. The County analyzed the phased approach alternative and determined that it was not feasible for multiple reasons. (Draft EIR pp. 6-3 -6-4.) Notwithstanding the rejection of the phased approach alternative, the Draft EIR analyzed still analyzed a reasonable range of alternatives, as required by CEQA. (14 Cal. Code Regs., § 15126.6(a).)

As indicated in the Draft EIR:

Kern County considered a phased approach alternative to reduce adverse visual impacts. The phased approach alternative would have required mining to be restricted to certain areas within the 30-acre quarry footprint and for overburden placement to be restricted to certain areas within the overburden stockpile areas with restricted areas adjusted over time as operations progressed. Conceptually, restricting mining and overburden placement to certain areas in a phased manner could provide for reduced periods and areas of visible mine-related activities and disturbance on the site while allowing for the same availability to overall reserves of the project area. However, it is unknown whether the size of the site and proposed quarry would allow for a phased approach and the County anticipates that mining to the proposed depth within the 30-acre quarry footprint may be infeasible to accomplish with limited and phased areas of disturbance.

Thus, the phased approach alternative is not considered to be a feasible option for implementation of proposed mining activities and an ineffective solution to address potential visual impacts. Therefore, the phased approach alternative was eliminated from further consideration.

(Draft EIR pp. 6-3 – 6-4.)

12-CO: The commenter requests that the Lead Agency consider the alternatives listed in the EIR. The Comment is noted for the record.

The Lead Agency notes that the comment does not raise a significant environmental concern and need not be addressed in these responses to comments. (14 Cal. Code Regs., 15088(c).) Notwithstanding, the Lead Agency notes that it will consider all alternatives presented in the Draft EIR.

Comments Received After October 7, 2022 Close of Public Comment Period

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Office Memorandum

KERN COUNTY

To: Planning and Natural Resources
Department
Randall Cates

Date: October 12, 2022

From: Public Works Department
Floodplain Management Section
Kevin Hamilton, by Brian Blase

Phone: (661) 862-5083
Email: BlaseB@kerncounty.com

Subject: Notice of Public Hearing – Planning Commission
Conditional Use Permit #45, Map #214

Our section has reviewed the attached subject documents and has the following comments:

The runoff of storm water from the site will be increased due to the increase in impervious surface generated by the proposed development.

Therefore, this section recommends the following be included as Conditions of Approval for this project:

The applicant shall provide a plan for the disposal of drainage waters originating on site and from adjacent road right-of-ways (if required), subject to approval of the Public Works Department, per the Kern County Development Standards.

13-A

**Response to Comment Letter 13: Kern County Public Works Department–
Floodplain Management Section (October 12, 2022)**

13-A: The commenter states that runoff of stormwater from the site will be increased due to an increase in impervious surface generated by the project, and recommends the Lead Agency include the following as a Condition of Approval for this project:

The applicant shall provide a plan for the disposal of drainage waters originating on site and from adjacent road right-of-ways (if required), subject to approval of the Public Works Department, per the Kern County Development Standards.

The comment is noted for the record. The project will not result in a significant increase in impervious areas.

As indicated in the Draft EIR,

Since the project incorporates stormwater retention, would generally maintain runoff directions in undisturbed areas, and would not create significant impervious areas, increases in stormwater runoff flows from the project in a manner that would create the potential for increased erosion and sedimentation is not anticipated.

(Draft EIR p. 4.9-23.)

Notwithstanding, the Lead Agency has proposed mitigation to ensure on-site drainage and the differential in total stormwater runoff is retained; therefore, impacts would be less than significant with mitigation. (Ibid.)

Additionally, the Lead Agency is proposing to add a Condition of Approval as recommended by the Kern County Public Works Department, Floodplain Management Section.

COUNTY OF KERN
PUBLIC WORKS DEPARTMENT
Office Memorandum

To: Lorelei Oviatt, Director
Planning and Natural Resources Department
Attn: Randall Cates, Planner III

October 11, 2022

From: Paul Candelaria, Senior Engineer *PC*
Public Works Department/Development Review Division

Subject: 7-5.3 Conditional Use Permit #45, Map #214
(Mojave Tropico Road, Mojave)

This Department has reviewed the subject project and recommends the following:

1. Under encroachment permit, construct private road approaches at locations shown for access off of Mojave-Tropico Road.
2. All easements shall be kept open, clear, and free from buildings and structures of any kind pursuant to Chapters 18.50 and 18.55 of the Kern County Land Division Ordinance. All obstructions, including utility poles and lines, trees, pole signs, fences, or similar obstructions, shall be removed from the ultimate road rights-of-way. Compliance with this requirement is the responsibility of the applicant and may result in significant financial expenditures.

14-A

Thank you for the opportunity to comment on this project. If you have any questions or comments, please contact Rodd Parke of this Department.

**Response to Comment Letter 14: Kern County Public Works Department–
Development Review Division (October 11, 2022)**

14-A: The commenter has reviewed the subject project and recommends the following:

1. Under encroachment permit, construct private road approaches at locations shown for access off of Mojave-Tropico Road; and
2. All easements shall be kept open, clear, and free from buildings and structures of any kind pursuant to Chapters 18.50 and 18.55 of the Kern County Land Division Ordinance. All obstructions, including utility poles and lines, trees, pole signs, fences, or similar obstructions, shall be removed from the ultimate road rights-of-way. Compliance with this requirement is the responsibility of the applicant and may result in significant financial expenditures.

The Lead Agency is proposing to add Conditions of Approval requiring the project proponent/operator comply with the two recommendations of the Kern County Public Works Department, Development Review Division.

This comment does not otherwise raise a substantive issue on the content of the Draft EIR. The comment has been noted for the record and revisions to the Draft EIR are not necessary.

Comment Letter 15: Santa Rosa Rancheria Tachi-Yokut Tribe (October 19, 2022)

Randall Cates

From: Samantha McCarty <SMcCarty@tachi-yokut-nsn.gov>
Sent: Wednesday, October 19, 2022 4:37 PM
To: Randall Cates
Cc: Shana Powers; Colin Rambo
Subject: CUP #45, Map #214

CAUTION: This email originated from outside of the organization. Do not click links, open attachments, or provide information unless you recognize the sender and know the content is safe.

Dear Randall,

Thank you for contacting the Santa Rosa Rancheria Tachi-Yokut Tribe regarding: CUP #45, Map #214. Due to the location of this project, we will be deferring to the Tejon Indian Tribe. I have CC'd their Cultural Resources Manager Colin Rambo in this email. If you have any questions, comments, and or concerns please contact the SRR Cultural Department or myself. Thank you.

15-A

Sincerely,

Samantha McCarty

Santa Rosa Rancheria Tachi-Yokut Tribe
Cultural Specialist II

SMcCarty@tachi-yokut-nsn.gov

Office: (559) 924-1278 x 4091

Cell: (559) 633-6640

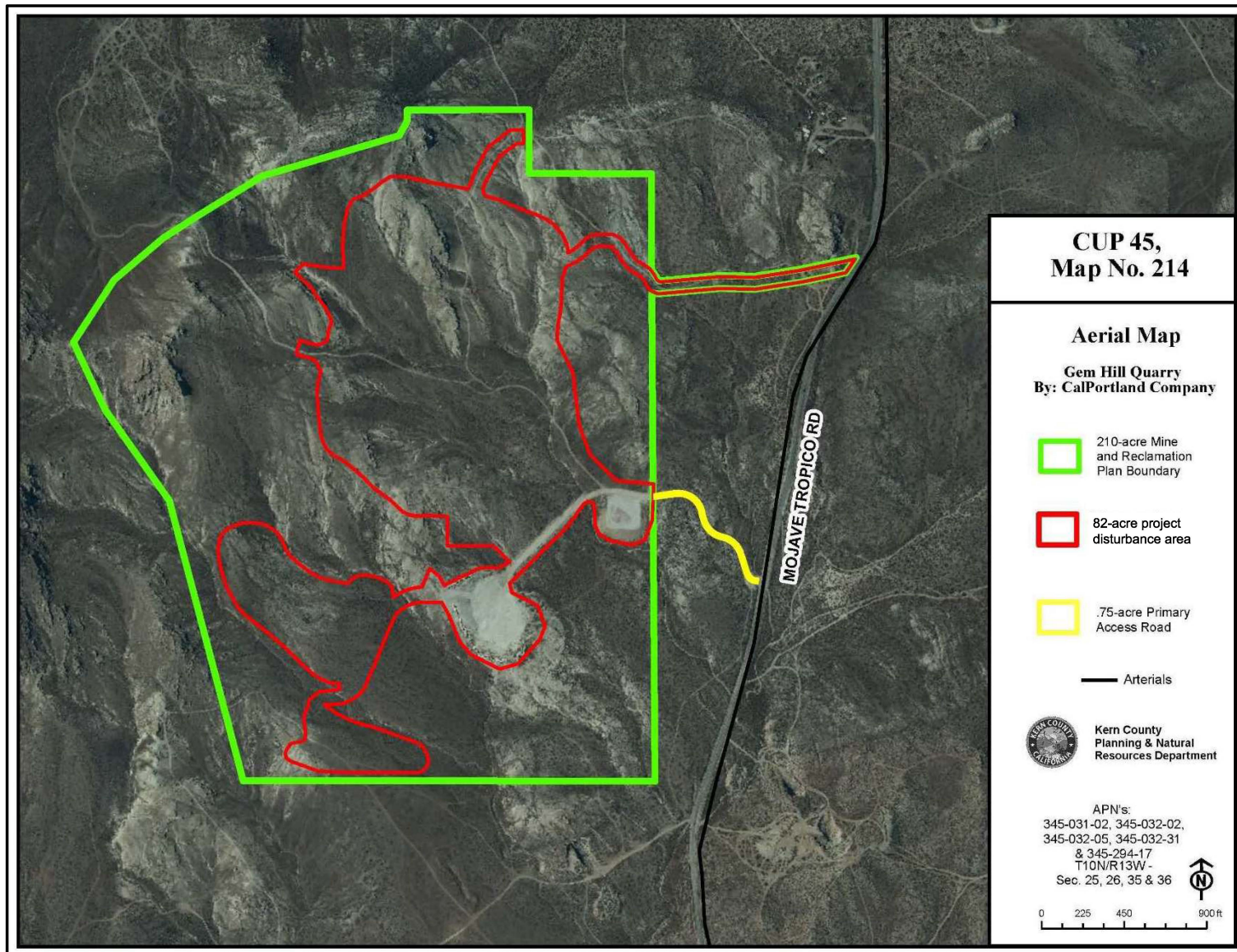
***PLEASE KEEP ALL CULTURAL STAFF IN EMAILS UNLESS STATED OTHERWISE**

**Response to Comment Letter 15: Santa Rosa Rancheria Tachi-Yokut Tribe
(October 19, 2022)**

15-A: The commenter represents the Santa Rosa Rancheria Tachi-Yokut Tribe. The commenter states that they will be deferring to the comments of the Tejon Indian Tribe.

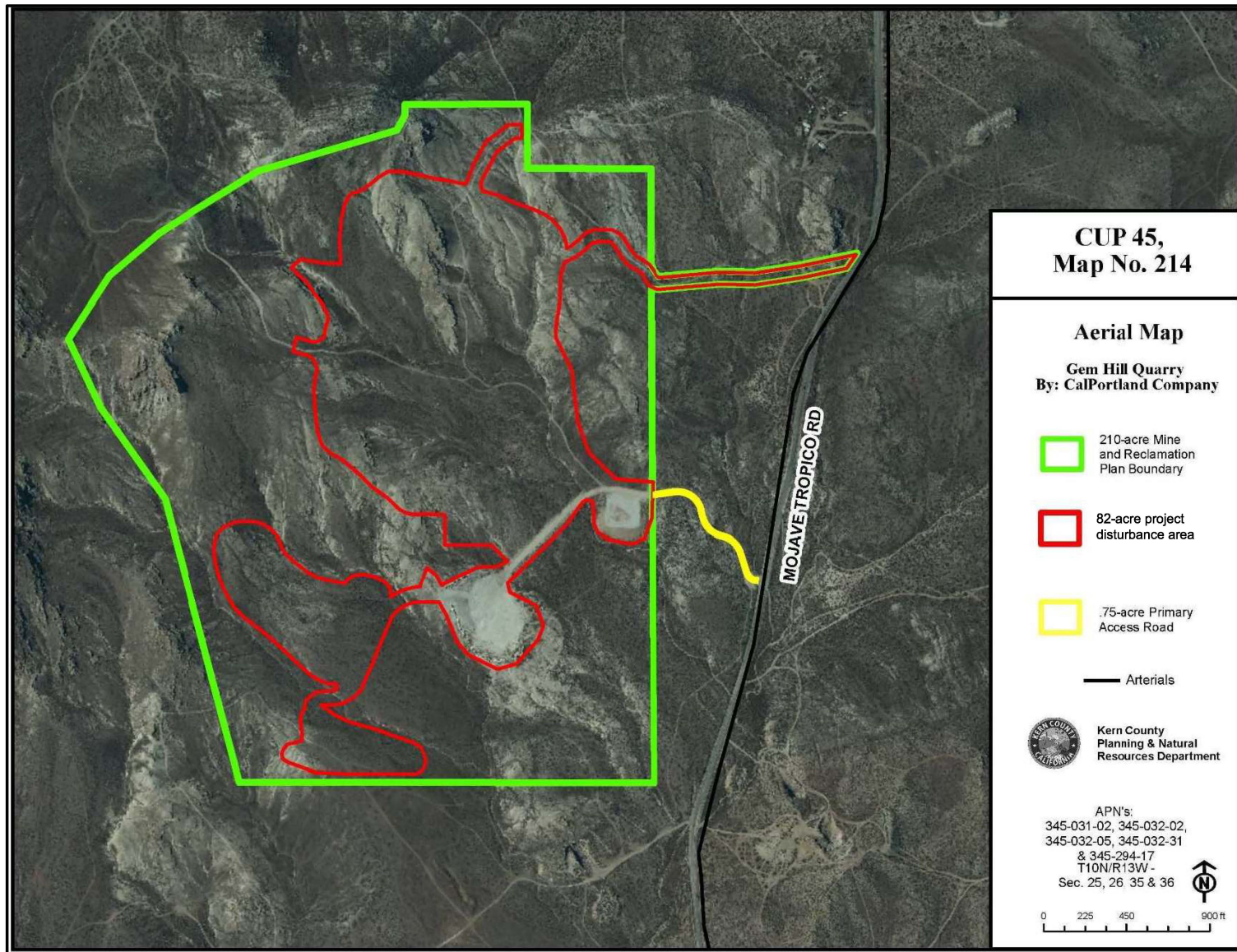
The comment is noted for the record.

Attachment 1
Revised Figure 1-3



**Figure 1-3
Aerial Photograph Map**

Attachment 2
Revised Figure 3-3



**Figure 3-3
Aerial Photograph Map**

Attachment 3
**Appendix I.4: Analytical Report, Laboratory Job
ID: 570-113190-1**

Appendix I.4
Analytical Report,
Laboratory Job ID: 570-113190-1

ANALYTICAL REPORT

Eurofins Calscience
2841 Dow Avenue, Suite 100
Tustin, CA 92780
Tel: (714)895-5494

Laboratory Job ID: 570-113190-1
Client Project/Site: Buildup

For:

CalPortland Company
Oro Grande Cement Plant
19409 National Trails Hwy
Oro Grande, California 92368

Attn: Jennifer Jones



Authorized for release by:

10/18/2022 3:41:45 PM

Carla Hollowell, Project Manager I
(714)895-5494

Carla.Hollowell@et.eurofinsus.com

Designee for

Don Burley, Senior Project Manager
(657)212-3033

Donald.Burley@et.eurofinsus.com

LINKS

Review your project
results through



Have a Question?



Visit us at:

www.eurofinsus.com/Env

The test results in this report meet all 2003 NELAC, 2009 TNI, and 2016 TNI requirements for accredited parameters, exceptions are noted in this report. This report may not be reproduced except in full, and with written approval from the laboratory. For questions please contact the Project Manager at the e-mail address or telephone number listed on this page.

This report has been electronically signed and authorized by the signatory. Electronic signature is intended to be the legally binding equivalent of a traditionally handwritten signature.

Results relate only to the items tested and the sample(s) as received by the laboratory.



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Definitions/Glossary

Client: CalPortland Company
Project/Site: Buildup

Job ID: 570-113190-1

Glossary

Abbreviation	These commonly used abbreviations may or may not be present in this report.
α	Listed under the "D" column to designate that the result is reported on a dry weight basis
%R	Percent Recovery
CFL	Contains Free Liquid
CFU	Colony Forming Unit
CNF	Contains No Free Liquid
DER	Duplicate Error Ratio (normalized absolute difference)
Dil Fac	Dilution Factor
DL	Detection Limit (DoD/DOE)
DL, RA, RE, IN	Indicates a Dilution, Re-analysis, Re-extraction, or additional Initial metals/anion analysis of the sample
DLC	Decision Level Concentration (Radiochemistry)
EDL	Estimated Detection Limit (Dioxin)
LOD	Limit of Detection (DoD/DOE)
LOQ	Limit of Quantitation (DoD/DOE)
MCL	EPA recommended "Maximum Contaminant Level"
MDA	Minimum Detectable Activity (Radiochemistry)
MDC	Minimum Detectable Concentration (Radiochemistry)
MDL	Method Detection Limit
ML	Minimum Level (Dioxin)
MPN	Most Probable Number
MQL	Method Quantitation Limit
NC	Not Calculated
ND	Not Detected at the reporting limit (or MDL or EDL if shown)
NEG	Negative / Absent
POS	Positive / Present
PQL	Practical Quantitation Limit
PRES	Presumptive
QC	Quality Control
RER	Relative Error Ratio (Radiochemistry)
RL	Reporting Limit or Requested Limit (Radiochemistry)
RPD	Relative Percent Difference, a measure of the relative difference between two points
TEF	Toxicity Equivalent Factor (Dioxin)
TEQ	Toxicity Equivalent Quotient (Dioxin)
TNTC	Too Numerous To Count

Case Narrative

Client: CalPortland Company
Project/Site: Buildup

Job ID: 570-113190-1

Job ID: 570-113190-1

Laboratory: Eurofins Calscience

Narrative

**Job Narrative
570-113190-1**

Comments

No additional comments.

Receipt

The sample was received on 10/13/2022 10:55 AM. Unless otherwise noted below, the sample arrived in good condition, and where required, properly preserved and on ice. The temperature of the cooler at receipt was 24.4° C.

Metals

Method 1311: Insufficient sample was provided to perform the leaching procedure with the required 100g for the following sample: CL 14504 GH Pozz (570-113190-1). The volume of leaching fluid was adjusted proportionally to maintain a 20:1 ratio of leaching fluid to weight of sample. Reporting limits (RLs) are not affected.

No additional analytical or quality issues were noted, other than those described above or in the Definitions/Glossary page.

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Detection Summary

Client: CalPortland Company
Project/Site: Buildup

Job ID: 570-113190-1

Client Sample ID: CL 14504 GH Pozz

Lab Sample ID: 570-113190-1

Analyte	Result	Qualifier	RL	Unit	Dil Fac	D	Method	Prep Type
Barium	0.194		0.100	mg/L	1		6010B	TCLP

- 1
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- 4
- 5
- 6
- 7
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- 12
- 13
- 14

This Detection Summary does not include radiochemical test results.

Client Sample Results

Client: CalPortland Company
Project/Site: Buildup

Job ID: 570-113190-1

Method: SW846 6010B - Metals (ICP) - TCLP

Client Sample ID: CL 14504 GH Pozz

Date Collected: 10/12/22 00:00

Date Received: 10/13/22 10:55

Lab Sample ID: 570-113190-1

Matrix: Solid

Analyte	Result	Qualifier	RL	Unit	D	Prepared	Analyzed	Dil Fac
Arsenic	ND		1.00	mg/L		10/14/22 14:00	10/17/22 12:25	1
Barium	0.194		0.100	mg/L		10/14/22 14:00	10/17/22 12:25	1
Cadmium	ND		0.100	mg/L		10/14/22 14:00	10/17/22 12:25	1
Chromium	ND		0.500	mg/L		10/14/22 14:00	10/17/22 12:25	1
Lead	ND		0.500	mg/L		10/14/22 14:00	10/17/22 12:25	1
Selenium	ND		0.500	mg/L		10/14/22 14:00	10/17/22 12:25	1
Silver	ND		0.100	mg/L		10/14/22 14:00	10/17/22 12:25	1

Client Sample Results

Client: CalPortland Company
Project/Site: Buildup

Job ID: 570-113190-1

Method: SW846 7470A - Mercury (CVAA) - TCLP

Client Sample ID: CL 14504 GH Pozz

Date Collected: 10/12/22 00:00

Date Received: 10/13/22 10:55

Lab Sample ID: 570-113190-1

Matrix: Solid

Analyte	Result	Qualifier	RL	Unit	D	Prepared	Analyzed	Dil Fac
Mercury	ND		0.00250	mg/L		10/17/22 13:29	10/18/22 13:57	1

- 1
- 2
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QC Sample Results

Client: CalPortland Company
Project/Site: Buildup

Job ID: 570-113190-1

Method: 6010B - Metals (ICP)

Lab Sample ID: LB 570-272563/1-B
Matrix: Solid
Analysis Batch: 273255

Client Sample ID: Method Blank
Prep Type: TCLP
Prep Batch: 272754

Analyte	LB LB		RL	Unit	D	Prepared	Analyzed	Dil Fac
	Result	Qualifier						
Arsenic	ND		1.00	mg/L		10/14/22 14:00	10/17/22 12:16	1
Barium	ND		0.100	mg/L		10/14/22 14:00	10/17/22 12:16	1
Cadmium	ND		0.100	mg/L		10/14/22 14:00	10/17/22 12:16	1
Chromium	ND		0.500	mg/L		10/14/22 14:00	10/17/22 12:16	1
Lead	ND		0.500	mg/L		10/14/22 14:00	10/17/22 12:16	1
Selenium	ND		0.500	mg/L		10/14/22 14:00	10/17/22 12:16	1
Silver	ND		0.100	mg/L		10/14/22 14:00	10/17/22 12:16	1

Lab Sample ID: LCS 570-272563/2-B
Matrix: Solid
Analysis Batch: 273255

Client Sample ID: Lab Control Sample
Prep Type: TCLP
Prep Batch: 272754

Analyte	Spike Added	LCS Result	LCS Qualifier	Unit	D	%Rec	%Rec Limits
Barium	2.00	1.920		mg/L		96	80 - 120
Cadmium	2.00	1.919		mg/L		96	80 - 120
Chromium	2.00	1.931		mg/L		97	80 - 120
Lead	2.00	1.951		mg/L		98	80 - 120
Selenium	2.00	1.704		mg/L		85	80 - 120
Silver	1.00	0.9590		mg/L		96	80 - 120

Lab Sample ID: LCSD 570-272563/3-B
Matrix: Solid
Analysis Batch: 273255

Client Sample ID: Lab Control Sample Dup
Prep Type: TCLP
Prep Batch: 272754

Analyte	Spike Added	LCSD Result	LCSD Qualifier	Unit	D	%Rec	%Rec Limits	RPD	
								RPD	Limit
Arsenic	2.00	1.903		mg/L		95	80 - 120	1	20
Barium	2.00	1.931		mg/L		97	80 - 120	1	20
Cadmium	2.00	1.922		mg/L		96	80 - 120	0	20
Chromium	2.00	1.971		mg/L		99	80 - 120	2	20
Lead	2.00	1.948		mg/L		97	80 - 120	0	20
Selenium	2.00	1.688		mg/L		84	80 - 120	1	20
Silver	1.00	0.9590		mg/L		96	80 - 120	0	20

Lab Sample ID: 570-113190-1 MS
Matrix: Solid
Analysis Batch: 273255

Client Sample ID: CL 14504 GH Pozz
Prep Type: TCLP
Prep Batch: 272754

Analyte	Sample Result	Sample Qualifier	Spike Added	MS Result	MS Qualifier	Unit	D	%Rec	%Rec Limits
Barium	0.194		2.00	2.076		mg/L		94	87 - 123
Cadmium	ND		2.00	1.870		mg/L		94	82 - 124
Chromium	ND		2.00	2.022		mg/L		97	86 - 122
Lead	ND		2.00	1.892		mg/L		95	84 - 120
Selenium	ND		2.00	1.800		mg/L		90	79 - 127
Silver	ND		1.00	0.9710		mg/L		97	86 - 128

QC Sample Results

Client: CalPortland Company
Project/Site: Buildup

Job ID: 570-113190-1

Method: 6010B - Metals (ICP) (Continued)

Lab Sample ID: 570-113190-1 MSD
Matrix: Solid
Analysis Batch: 273255

Client Sample ID: CL 14504 GH Pozz
Prep Type: TCLP
Prep Batch: 272754

Analyte	Sample	Sample	Spike	MSD	MSD	Unit	D	%Rec	%Rec	RPD	RPD
	Result	Qualifier	Added	Result	Qualifier				Limits	RPD	Limit
Arsenic	ND		2.00	2.089		mg/L		104	80 - 140	7	11
Barium	0.194		2.00	2.151		mg/L		98	87 - 123	4	6
Cadmium	ND		2.00	1.914		mg/L		96	82 - 124	2	7
Chromium	ND		2.00	2.071		mg/L		99	86 - 122	2	8
Lead	ND		2.00	1.948		mg/L		97	84 - 120	3	7
Selenium	ND		2.00	1.820		mg/L		91	79 - 127	1	9
Silver	ND		1.00	1.006		mg/L		101	86 - 128	4	7

Method: 7470A - Mercury (CVAA)

Lab Sample ID: LB 570-272563/1-C
Matrix: Solid
Analysis Batch: 273666

Client Sample ID: Method Blank
Prep Type: TCLP
Prep Batch: 273265

Analyte	LB	LB	RL	Unit	D	Prepared	Analyzed	Dil Fac
	Result	Qualifier						
Mercury	ND		0.00250	mg/L		10/17/22 13:29	10/18/22 13:52	1

Lab Sample ID: LCS 570-272563/2-C
Matrix: Solid
Analysis Batch: 273666

Client Sample ID: Lab Control Sample
Prep Type: TCLP
Prep Batch: 273265

Analyte	Spike Added	LCS	LCS	Unit	D	%Rec	%Rec
		Result	Qualifier				Limits
Mercury	0.0400	0.03778		mg/L		94	80 - 120

Lab Sample ID: LCSD 570-272563/3-C
Matrix: Solid
Analysis Batch: 273666

Client Sample ID: Lab Control Sample Dup
Prep Type: TCLP
Prep Batch: 273265

Analyte	Spike Added	LCSD	LCSD	Unit	D	%Rec	%Rec	RPD	RPD
		Result	Qualifier				Limits	RPD	Limit
Mercury	0.0400	0.03778		mg/L		94	80 - 120	0	10

Lab Sample ID: 570-113190-1 MS
Matrix: Solid
Analysis Batch: 273666

Client Sample ID: CL 14504 GH Pozz
Prep Type: TCLP
Prep Batch: 273265

Analyte	Sample	Sample	Spike	MS	MS	Unit	D	%Rec	%Rec
	Result	Qualifier	Added	Result	Qualifier				Limits
Mercury	ND		0.0400	0.04097		mg/L		102	80 - 120

Lab Sample ID: 570-113190-1 MSD
Matrix: Solid
Analysis Batch: 273666

Client Sample ID: CL 14504 GH Pozz
Prep Type: TCLP
Prep Batch: 273265

Analyte	Sample	Sample	Spike	MSD	MSD	Unit	D	%Rec	%Rec	RPD	RPD
	Result	Qualifier	Added	Result	Qualifier				Limits	RPD	Limit
Mercury	ND		0.0400	0.04079		mg/L		102	80 - 120	0	20

QC Association Summary

Client: CalPortland Company
Project/Site: Buildup

Job ID: 570-113190-1

Metals

Leach Batch: 272563

Lab Sample ID	Client Sample ID	Prep Type	Matrix	Method	Prep Batch
570-113190-1	CL 14504 GH Pozz	TCLP	Solid	1311	
LB 570-272563/1-B	Method Blank	TCLP	Solid	1311	
LB 570-272563/1-C	Method Blank	TCLP	Solid	1311	
LCS 570-272563/2-B	Lab Control Sample	TCLP	Solid	1311	
LCS 570-272563/2-C	Lab Control Sample	TCLP	Solid	1311	
LCSD 570-272563/3-B	Lab Control Sample Dup	TCLP	Solid	1311	
LCSD 570-272563/3-C	Lab Control Sample Dup	TCLP	Solid	1311	
570-113190-1 MS	CL 14504 GH Pozz	TCLP	Solid	1311	
570-113190-1 MSD	CL 14504 GH Pozz	TCLP	Solid	1311	

Prep Batch: 272754

Lab Sample ID	Client Sample ID	Prep Type	Matrix	Method	Prep Batch
570-113190-1	CL 14504 GH Pozz	TCLP	Solid	3010A	272563
LB 570-272563/1-B	Method Blank	TCLP	Solid	3010A	272563
LCS 570-272563/2-B	Lab Control Sample	TCLP	Solid	3010A	272563
LCSD 570-272563/3-B	Lab Control Sample Dup	TCLP	Solid	3010A	272563
570-113190-1 MS	CL 14504 GH Pozz	TCLP	Solid	3010A	272563
570-113190-1 MSD	CL 14504 GH Pozz	TCLP	Solid	3010A	272563

Analysis Batch: 273255

Lab Sample ID	Client Sample ID	Prep Type	Matrix	Method	Prep Batch
570-113190-1	CL 14504 GH Pozz	TCLP	Solid	6010B	272754
LB 570-272563/1-B	Method Blank	TCLP	Solid	6010B	272754
LCS 570-272563/2-B	Lab Control Sample	TCLP	Solid	6010B	272754
LCSD 570-272563/3-B	Lab Control Sample Dup	TCLP	Solid	6010B	272754
570-113190-1 MS	CL 14504 GH Pozz	TCLP	Solid	6010B	272754
570-113190-1 MSD	CL 14504 GH Pozz	TCLP	Solid	6010B	272754

Prep Batch: 273265

Lab Sample ID	Client Sample ID	Prep Type	Matrix	Method	Prep Batch
570-113190-1	CL 14504 GH Pozz	TCLP	Solid	7470A	272563
LB 570-272563/1-C	Method Blank	TCLP	Solid	7470A	272563
LCS 570-272563/2-C	Lab Control Sample	TCLP	Solid	7470A	272563
LCSD 570-272563/3-C	Lab Control Sample Dup	TCLP	Solid	7470A	272563
570-113190-1 MS	CL 14504 GH Pozz	TCLP	Solid	7470A	272563
570-113190-1 MSD	CL 14504 GH Pozz	TCLP	Solid	7470A	272563

Analysis Batch: 273666

Lab Sample ID	Client Sample ID	Prep Type	Matrix	Method	Prep Batch
570-113190-1	CL 14504 GH Pozz	TCLP	Solid	7470A	273265
LB 570-272563/1-C	Method Blank	TCLP	Solid	7470A	273265
LCS 570-272563/2-C	Lab Control Sample	TCLP	Solid	7470A	273265
LCSD 570-272563/3-C	Lab Control Sample Dup	TCLP	Solid	7470A	273265
570-113190-1 MS	CL 14504 GH Pozz	TCLP	Solid	7470A	273265
570-113190-1 MSD	CL 14504 GH Pozz	TCLP	Solid	7470A	273265

Lab Chronicle

Client: CalPortland Company
Project/Site: Buildup

Job ID: 570-113190-1

Client Sample ID: CL 14504 GH Pozz

Lab Sample ID: 570-113190-1

Date Collected: 10/12/22 00:00

Matrix: Solid

Date Received: 10/13/22 10:55

Prep Type	Batch Type	Batch Method	Run	Dil Factor	Initial Amount	Final Amount	Batch Number	Prepared or Analyzed	Analyst	Lab
TCLP	Leach	1311			65.06 g	1300 mL	272563	10/13/22 22:00	XBO9	EET CAL 4
TCLP	Prep	3010A			5 mL	50 mL	272754	10/14/22 14:00	ECX6	EET CAL 4
TCLP	Analysis	6010B		1			273255	10/17/22 12:25	K1UV	EET CAL 4
Instrument ID: ICP11										
TCLP	Leach	1311			65.06 g	1300 mL	272563	10/13/22 22:00	XBO9	EET CAL 4
TCLP	Prep	7470A			5 mL	50 mL	273265	10/17/22 13:29	C0YH	EET CAL 4
TCLP	Analysis	7470A		1			273666	10/18/22 13:57	C0YH	EET CAL 4
Instrument ID: HG8										

¹ Completion dates and times are reported or not reported per method requirements or individual lab discretion.

Laboratory References:

EET CAL 4 = Eurofins Calscience Tustin, 2841 Dow Avenue, Tustin, CA 92780, TEL (714)895-5494



Accreditation/Certification Summary

Client: CalPortland Company
Project/Site: Buildup

Job ID: 570-113190-1

Laboratory: Eurofins Calscience

The accreditations/certifications listed below are applicable to this report.

Authority	Program	Identification Number	Expiration Date
Oregon	NELAP	4175	02-02-23

- 1
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- 13
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Method Summary

Client: CalPortland Company
Project/Site: Buildup

Job ID: 570-113190-1

Method	Method Description	Protocol	Laboratory
6010B	Metals (ICP)	SW846	EET CAL 4
7470A	Mercury (CVAA)	SW846	EET CAL 4
1311	TCLP Extraction	SW846	EET CAL 4
3010A	Preparation, Total Metals	SW846	EET CAL 4
7470A	Preparation, Mercury	SW846	EET CAL 4

Protocol References:

SW846 = "Test Methods For Evaluating Solid Waste, Physical/Chemical Methods", Third Edition, November 1986 And Its Updates.

Laboratory References:

EET CAL 4 = Eurofins Calscience Tustin, 2841 Dow Avenue, Tustin, CA 92780, TEL (714)895-5494

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Sample Summary

Client: CalPortland Company
Project/Site: Buildup

Job ID: 570-113190-1

Lab Sample ID	Client Sample ID	Matrix	Collected	Received
570-113190-1	CL 14504 GH Pozz	Solid	10/12/22 00:00	10/13/22 10:55

- 1
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Chain of Custody Record



Loc: 570
113190

TestAmerica Laboratories, Inc.

Eurofins Calscience
2841 Dow Ave Ste 100
Tustin, CA 92780

Regulatory Program: DW NPDES RCRA Other

Client Contact CalPortland - Crestmore Laboratory 1490 Rubidoux Blvd Jurupa Valley, CA 92509 626-691-2546 (xxx) xxx-xxxx FAX Project Name Buildup Site Crestmore Laboratory P O # 4501160995		Project Manager: Lena Davidkova Tel/Fax: Analysis Turnaround Time <input type="checkbox"/> CALENDAR DAYS <input checked="" type="checkbox"/> WORKING DAYS TAT if different from Below <input type="checkbox"/> 2 weeks <input type="checkbox"/> 1 week <input checked="" type="checkbox"/> 2 days <input checked="" type="checkbox"/> 1 day		Site Contact: Jennifer Jones Lab Contact: Carrier: <u>242 10/12/22</u> COC No _____ of _____ COCs	
Sample Identification CL 14504 GH Pozz		Sample Date 10/12/22	Sample Type (C=Comp, G=Grab) C	Matrix TCLP	# of Cont. 1
Preservation Used: 1= Ice, 2= HCl, 3= H2SO4, 4=HNO3, 5=NaOH, 6= Other		Filtered Sample (Y/N) N		Perform MS/MSD (Y/N) N	
Possible Hazard Identification: Are any samples from a listed EPA Hazardous Waste? Please List any EPA Waste Codes for the sample in the Comments Section if the lab is to dispose of the sample <input type="checkbox"/> Non-Hazard <input type="checkbox"/> Flammable <input type="checkbox"/> Skin Irritant		Sample Specific Notes Please rush testing			
Special Instructions/QC Requirements & Comments:		Sample Disposal (A fee may be assessed if samples are retained longer than 1 month)			
Custody Seals Intact: <input type="checkbox"/> Yes <input type="checkbox"/> No		Cooler Temp (°C) Obs'd <u>24.6</u> Cor'd <u>24.4</u> Therm ID No <u>SC11</u>			
Relinquished by Jennifer Jones		Received by _____ Company _____		Date/Time _____	
Relinquished by _____		Received by _____ Company _____		Date/Time _____	
Relinquished by _____		Received in Laboratory by _____ Company <u>EC</u>		Date/Time <u>10/13/22</u> <u>1095</u>	

Return to Client Disposal by Lab Archive for _____ Months





570-113190 Waybill

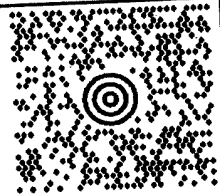
JENNIFER JONES
6266912546
CALPORTLAND CO
1490 RUBIDOUX BLVD
JURUPA VALLEY CA 92509

1 LBS

1 OF 1

DWT: 10,7,4

SHIP TO:
LENA DAVIDKOVA
7147307950
EUROFINS CALSCIENCE
2841 DOW AVE. STE. 100
TUSTIN CA 92780



CA 9279-08



UPS GROUND

TRACKING #: 1Z 970 FR2 03 93 6502



BILLING: P/P

Reference No.1: 616300
Reference No.2: 80009620

XGL 22.10.12

NV45 42.0A 10/2022*



DRIVER AID

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prime

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Login Sample Receipt Checklist

Client: CalPortland Company

Job Number: 570-113190-1

Login Number: 113190

List Source: Eurofins Calscience

List Number: 1

Creator: Cruise, Noel

Question	Answer	Comment
Radioactivity wasn't checked or is \leq background as measured by a survey meter.	N/A	
The cooler's custody seal, if present, is intact.	True	
Sample custody seals, if present, are intact.	True	
The cooler or samples do not appear to have been compromised or tampered with.	True	
Samples were received on ice.	False	Thermal preservation not required.
Cooler Temperature is acceptable.	True	
Cooler Temperature is recorded.	True	
COC is present.	True	
COC is filled out in ink and legible.	True	
COC is filled out with all pertinent information.	True	
Is the Field Sampler's name present on COC?	True	
There are no discrepancies between the containers received and the COC.	True	
Samples are received within Holding Time (excluding tests with immediate HTs)	True	
Sample containers have legible labels.	True	
Containers are not broken or leaking.	True	
Sample collection date/times are provided.	True	
Appropriate sample containers are used.	True	
Sample bottles are completely filled.	True	
Sample Preservation Verified.	True	
There is sufficient vol. for all requested analyses, incl. any requested MS/MSDs	True	
Containers requiring zero headspace have no headspace or bubble is <math><6\text{mm}</math> (1/4").	True	
Multiphasic samples are not present.	True	
Samples do not require splitting or compositing.	True	
Residual Chlorine Checked.	N/A	

